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# COLLECTION

OF SUCH OF THE

## REVISED STATUTES OF ONTARIO,

AND OF THE ACTS OF THE LEGISLATURE OF THAT PROVINCE  
PASSED IN THE SESSION

41 VICTORIA, 1878,

AS RELATE TO

## MUNICIPAL MATTERS.

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COLLECTED, ARRANGED AND INDEXED BY

R. E. KINGSFORD,

OF OSGOODE HALL, BARRISTER-AT-LAW.

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TORONTO:  
HUNTER, ROSE & CO., PUBLISHERS.  
1878.

PRINTED AND BOUND BY  
HUNTER, ROSE & CO.,  
TORONTO.

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# PART I.

## REVISED STATUTES OF ONTARIO.

### TITLE XII.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

## PRELIMINARY.

- Short title.      1. This Act may be cited as "*The Municipal Act.*"
- Interpretation of words.      2. Unless otherwise declared or indicated by the context, wherever any of the following words occur in this Act, they shall have the meanings hereinafter expressed, namely :
- "Municipality."      (1.) "Municipality," shall mean any locality the inhabitants of which are incorporated or are continued, or become so under this Act ;
- "Local Municipality."      (2.) "Local Municipality," shall mean a City, Town, Township, or incorporated Village ;
- "Council."      (3.) "Council," shall mean the Municipal Council or Provisional Municipal Council, as the case may be ;
- "County."      (4.) "County," shall mean County, Union of Counties or United Counties, or Provisional County, as the case may be ;
- "Township."      (5.) "Township," shall mean Township, Union of Townships or United Townships, as the case may be ;
- "County Town."      (6.) "County Town," shall mean the City, Town, or Village in which the Assizes for the County are held ;
- "Land."  
"Real Estate."  
"Real Property."      (7.) "Land," "Lands," "Real Estate," "Real Property," shall respectively, include lands, tenements and hereditaments, and all rights thereto and interests therein ;
- "Highway."  
"Road."  
"Bridge."      (8.) "Highway," "Road" or "Bridge," shall mean a Public Highway, Road, or Bridge, respectively ;
- "Electors."      (9.) "Electors," shall mean the persons entitled for the time being to vote at any municipal election, or in respect of any by-law, in the Municipality, Ward, Polling Sub-division, or Police Village, as the case may be ;
- "Reeve."      (10.) "Reeve" shall include the Deputy Reeve or Deputy Reeves where there is a Deputy Reeve for the Municipality, except in so far as respects the office of a Justice of the Peace ;
- Next day."      11.) The words "next day" shall not apply to or include Sunday or Statutory Holidays. 36 V. c. 48, s. 1 ; 40 V. c. 8, s. 46.

PART I.  
OF MUNICIPAL ORGANIZATION.

TITLE I.—INCORPORATION.

TITLE II.—NEW CORPORATIONS.

TITLE I.—INCORPORATION.—Secs. 3-8.

**3.** The inhabitants of every County, City, Town, Village, Township, Union of Counties, and Union of Townships incorporated at the time this Act takes effect, shall continue to be a body corporate, with the municipal boundaries of every such Corporation respectively then established. 36 V. c. 48, s. 2.

Existing  
municipal  
corporations  
continued.

**4.** The head and members of the Council, and the officers, by-laws, contracts, property, assets and liabilities of every Municipal Corporation, when this Act takes effect, shall be deemed the head and members of the Council, and the officers, by-laws, contracts, property, assets and liabilities of such Corporation, as continued under and subject to the provisions of this Act. 36 V. c. 48, s. 3.

Heads,  
officers,  
by-laws, con-  
tracts, &c.,  
continued.

**5.** The name of every body corporate (not being a provisional corporation) continued, or erected under this Act, shall be "*The Corporation of the County, City, (Town, Village, Township, or United Counties, or United Townships* as the case may be) of " (naming the same.) 36 V. c. 48, s. 4.

Names of  
municipal  
corporations.

**6.** The inhabitants of every Junior County, upon a Provisional Council being or having been appointed for the County, shall be a body corporate under the name of "*The Provisional Corporation of the County of* " (naming it.) 36 V. c. 48, s. 5.

Names of  
provisional  
corporations.

**7.** The inhabitants of every County, or Union of Counties erected by proclamation into an independent County or Union of Counties, and of every Township or Union of Townships, erected into an independent Township or Union of Townships, and of every locality erected into a City, Town or incorporated Village, and of every County or Township separated from any incorporated Union of Counties or Townships, and of every County or Township, or of the Counties or Townships, if more than one, remaining of the Union after the separation, being so

Inhabitants of  
counties, town-  
ships, &c., and  
of cities, towns,  
&c., to be a  
body corpo-  
rate.



erected or separated after this Act takes effect, shall be a body corporate under this Act. 36 V. c. 48, s. 6.

Corporate powers to be exercised by councils.

8. The powers of every body corporate under this Act shall be exercised by the Council thereof. 36 V. c. 48, s. 7.

## TITLE II.—NEW CORPORATIONS.

DIV. I.—VILLAGES.

DIV. II.—TOWNS AND CITIES.

DIV. III.—TOWNSHIPS.

DIV. IV.—COUNTIES.

DIV. V.—PROVISIONAL COUNTY CORPORATIONS.

DIV. VI.—MATTERS CONSEQUENT UPON THE FORMATION OF NEW CORPORATIONS.

### DIVISION I.—VILLAGES.

*When a Village may be incorporated. Sec. 9.*

*Restrictions as to area of Towns and Villages. Sec. 10.*

*Arrangement with respect to assets and debts of Townships. Sec. 11.*

*Case of Village partly in two Counties provided for. Sec. 12.*

*Arrangement as to debts when Village transferred from one County to another. Sec. 13.*

*Additions to area. Sec. 14.*

*Reductions of area. Sec. 15.*

When population 750, county council may incorporate as a village, and name place for first election, and a returning officer.

9. When the census returns of an unincorporated Village, with its immediate neighbourhood, taken under the direction of the Council or Councils of the County or Counties in which the Village and its neighbourhood are situate, show that the same contain over seven hundred and fifty inhabitants, and when the residences of such inhabitants are sufficiently near to form an incorporated Village, then, on petition by not less than one hundred resident freeholders and householders of the Village and neighbourhood, of whom not fewer than one-half shall be freeholders, the Council or Councils of the County or Counties in which the Village and neighbourhood are situate shall, by by-law, erect the Village and neighbourhood into an incorporated Village, apart from the Township or Townships in which the same are situate, by a name, and with boundaries to be respectively declared in the by-law, and shall name in the by-law the place for holding the first election, and the Returning Officer who is to hold the same. 36 V. c. 48, s. 8, *part*.

Area of town or village limited.

10. No Town or Village incorporated after the passing of this Act, the population of which does not exceed one thousand



souls, shall extend over or occupy within the limits of the incorporation an area of more than five hundred acres of land.

2. No Town or Village already or hereafter incorporated, and containing a population exceeding one thousand souls, shall make any further addition to its limits or area, except in the proportion of not more than two hundred acres for each additional thousand souls, subsequent to the first thousand.

Regulations as to enlargement of area.

3. In the case of all Towns or Villages now incorporated, whenever the area thereof exceeds the proportionate limit above prescribed, to wit, in all cases where the area exceeds the proportion of five hundred acres for the first thousand souls, and two hundred acres for each subsequent additional thousand, then in all such cases the said Towns or Villages shall not be permitted to make any further addition to their limits until their population has reached such a proportion to their present area.

Existing towns or villages, area of which exceeds proportionate limit not to be enlarged.

4. But in all cases, the persons then actually inhabiting the land about to be included within the limits of any Town or Village, may, for the purpose of such extension, be held and reckoned as among the inhabitants of such Town or Village; and the land occupied by streets or public squares may be excluded in estimating the area of such Town or Village. 36 V. c. 48, s. 8, *last part*.

How population and area may be reckoned.

11. In all cases where an incorporated Village is separated from the Township or Townships in which it is situate, the provisions of this Act for the disposition of the property, and payments of debts, upon the dissolution of a Union of Townships, shall be applicable as if the localities separated had been two Townships, and the Councils of such Village and Township or Townships shall respectively perform the like duties as by such provisions devolve upon the Councils of separated Townships, the said Village being considered as the Junior Township. 36 V. c. 48, s. 9.

Disposition of property and payment of debts when incorporated village is separated from township.

12. When the newly incorporated Village lies within two or more Counties, the Councils of the Counties shall, by by-law, annex the Village to one of the Counties; and if within six months after the petitions for the incorporation of the Village are presented, the Councils do not agree to which County the Village shall be annexed, the Wardens of the Counties shall memorialize the Lieutenant-Governor in Council, setting forth the grounds of difference between the Councils; and thereupon the Lieutenant-Governor shall, by proclamation, annex the Village to one of such Counties. 36 V. c. 48, s. 10.

When the village lies within two or more counties, village to be annexed to one of them by the county councils or Governor.

2. In case the Wardens do not, within one month next after the expiration of the six months, memorialize the Lieutenant-Governor as aforesaid, then one hundred of the freeholders and householders on the census list may petition the Lieutenant-

In case of failure of councils to act, freeholders, &c., may petition

Lieutenant-Governor.

Governor to settle the matter, and thereupon the Lieutenant-Governor shall, by proclamation, annex the incorporated Village to one of the said Counties. 36 V. c. 48, s. 11.

Liability of territory detached from one county and annexed to another.

**13.** In case any locality is, under the twelfth section of this Act, detached from one County and annexed to another, the Council of the County to which the locality is annexed and the Council of the Village shall agree with the Council of the County from which such locality is detached, as to the amount (if any) of the County liabilities which should be borne by the locality so detached, and the times of payment thereof.

2. If the Councils do not agree within three months of the separation in respect of the said matter, the same shall be determined by arbitration under this Act; and the amount (if any) so agreed or determined shall become a debt of the County to which the locality is attached, and such locality shall, until the said amount has been paid by the proceeds of such rates, continue subject to all rates which had been, prior to the separation, imposed for the payment of County debts, or for the payment of bonuses or aids granted by sections of the County to railways, or for the payment of local improvement debts.

3. The Council of the County or of the Village, as the case may require, shall pass such by-laws and take such proceedings as may be necessary for levying the said rates; and shall, unless such Council has previously paid the amount to the Municipality so liable, pay over the same when collected to the Municipality which is liable for the debt on account of which the rates were imposed.

4. Where the said Councils do not agree as aforesaid, the Lieutenant-Governor in Council may, before proclamation has been made, and upon the petition of a majority of the resident freeholders and householders of the said Village, and with the assent of at least two of the Councils of the Townships in which the said Village is situate, annul the incorporation of the said Village and restore the same to its former position as an unincorporated Village, and the same shall thereupon be reinstated to its former position to the same extent as if no proceedings for incorporation had ever been taken. 37 V. c. 16, s. 1.

Addition to villages by Lieutenant-Governor.

**14.** In case the Council of an incorporated Village petitions the Lieutenant-Governor to add to the boundaries thereof, the Lieutenant-Governor may, subject to the provisions of section ten of this Act, by proclamation add to the Village any part of the localities adjacent, which, from the proximity of the streets or buildings therein, or the probable future exigencies of the Village, it may seem desirable to add thereto; and in case the territory so added belonged to another County, it shall thenceforward, for all purposes, cease to belong to such other County, and shall belong to the same County as the rest of the Village. 36 V. c. 48, s. 12; 40 V. c. 7, *Sched. A* (168).

**15.** The County Council of any County or Union of Counties, upon the application by petition of the Corporation of any incorporated Village, whose outstanding obligations and debts do not exceed double the net amount of the yearly rate then last levied and collected therein, may, in their discretion, by by-law in that behalf reduce the area of such Village by excluding from it lands used wholly for farming purposes.

Reducing the area of villages.

2. Such by-law shall define, by metes and bounds, the new limits intended for such incorporated Village.

New limits to be defined,

3. No incorporated Village shall by any such change of boundaries be reduced in population below the number of seven hundred and fifty souls.

And population not reduced below 750,

4. The municipal privileges and rights of such Village shall not thereby be diminished, or otherwise interfered with as respects the remaining area thereof. 36 V. c. 48, s. 13.

Nor municipal rights of village abridged.

## DIVISION II.—TOWNS AND CITIES.

*Towns and Cities, how formed, and limits. Secs. 16–18.*

*Restrictions as to area of Towns. Sec. 10.*

*Wards, and additions to area. Secs. 19–21.*

*Towns, how withdrawn from and re-united to jurisdiction of County. Secs. 22, 23.*

**16.** A census of any Town or incorporated Village may at any time be taken under the authority of a by-law of the Council thereof. 36 V. c. 48, s. 14.

Census of towns and villages.

**17.** In case it appears by the census return taken under any such by-law, or under any statute, that a Town contains over fifteen thousand inhabitants, the Town may be erected into a City; and in case it appears by the return that an incorporated Village contains over two thousand inhabitants, the Village may be erected into a Town; but the change shall be made by means of and subject to the following proceedings and conditions:—

Town containing over 15,000 inhabitants may be erected into a city; and village containing over 2,000 into a town. Conditions.

1. The Council of the Town or Village shall, for three months after the census return, insert a notice in some newspaper published in the Town or Village, or, if no newspaper is published therein, then the Council shall, for three months, post up a notice in four of the most public places in the Town or Village, and insert the same in a newspaper published in the County Town of the County in which the Town or Village is situate, or if there is no such newspaper, than in the newspaper published nearest to the said Town or Village, setting forth in the notice the intention of the Council to apply for the erection of the Town into a City, or of the Village into a Town, and stating the limits intended to be included therein;

Notice to be given.



Census returns to be certified, and publication of notice proved.

Village may be made a town by proclamation.

Existing debts to be adjusted in case of a town to be made a city.

Town may be made a city by proclamation.

Limits of such new town or city.

Wards.

New division of wards in cities and towns.

Extension of city or town.

2. The Council of the Town or Village shall cause the census returns to be certified to the Lieutenant-Governor in Council, under the signature of the head of the Corporation, and under the corporate seal, and shall also cause the publication aforesaid to be proved to the Lieutenant-Governor in Council; then, in the case of a Village, the Lieutenant-Governor may, by proclamation, erect the Village into a Town by a name to be given thereto in the proclamation;

3. In case the application is for the erection of a Town into a City, the Town shall also pay to the County of which it forms part, such portion, if any, of the debts of the County as may be just, or the Council of the Town shall agree with the Council of the County as to the amount to be so paid, and the periods of payment with interest from the time of the erection of the new City, or in case of disagreement the same shall be determined by arbitration under this Act; and upon the Council proving to the Lieutenant-Governor in Council the payment, agreement or arbitration, then the Lieutenant-Governor may, by proclamation, erect the Town into a City, by a name to be given thereto in the proclamation. 36 V. c. 48, s. 15.

18. The Lieutenant-Governor may include in the new Town or City such portions of any Township or Townships adjacent thereto, and within the limits mentioned in the aforesaid notice, as, from the proximity of streets or buildings, or the probable future exigencies of the new Town or City, the Lieutenant-Governor may consider desirable to attach thereto. 36 V. c. 48, s. 16.

19. The Lieutenant-Governor may divide the new Town or City into Wards, with appropriate names and boundaries, but no Town shall have less than three Wards, and no Ward in any such Town or City less than five hundred inhabitants. 36 V. c. 48, s. 17.

20. In case two-thirds of the members of the Council of a City or Town do, in Council, before the fifteenth day of July in any year, pass a resolution affirming the expediency of a new division into Wards being made of the City or Town, or of a part of the same, either within the existing limits or with the addition of any part of the localities adjacent, which, from the proximity of streets or buildings therein, or the probable future exigencies of the City or Town, it may seem desirable to add thereto respectively, or the desirability of any addition being made to the limits of the City or Town, the Lieutenant-Governor may, by proclamation, divide the City or Town or such part thereof into Wards, as may seem expedient, and may add to the City or Town any part of the adjacent Township or Townships which the Lieutenant-Governor in Council, on the grounds aforesaid, considers it desirable to attach thereto. 36 V. c. 48, s. 18.

**21.** In case any tract of land so attached to the Town or City belonged to another County, the same shall thenceforward for all purposes cease to belong to such other County, and shall belong to the same County as the rest of the Town or City. 36  
Where land attached to town, &c., belonged to another county  
 V. c. 48, s. 19.

**22.** The Council of any Town may pass a by-law to withdraw the Town from the jurisdiction of the Council of the County within which the Town is situated, upon obtaining the assent of the electors of the Town to the by-law in manner provided by this Act, subject to the following provisions and conditions : Town may be withdrawn from jurisdiction of County by by-law on certain conditions.

1. After the final passing of the by-law, the amount which the Town is to pay to the County for the expenses of the administration of justice, the use of the Gaol, and the erection and repairs of the Registry Office, and for providing books for the same, and for services for which the County is liable, as required by and under the provisions of any Act respecting the registration of instruments relating to lands, as well as for the then existing debt of the County, if not mutually agreed upon, shall be ascertained by arbitration under this Act ; and the agreement or award shall distinguish the amount to be annually paid for the said expenses, and for the then debt of the County, and the number of years the payments for the debt are to be continued ; Amount to be paid by town to county for expenses of administration of justice to be settled by agreement or arbitration.

2. In adjusting their award, the arbitrators shall, among other things, take into consideration the amount previously paid by the Town, or which the Town is then liable to pay, for the construction of roads or bridges by the County, without the limits of the Town ; and also what the County has paid, or is liable to pay, for the construction of roads or bridges within the Town ; and they shall also ascertain and allow to the Town the value of its interest in all County property, except roads and bridges within the Town ; Matters to be considered in settling the same.

3. When the agreement or award has been made, a copy of the same, and of the by-law, duly verified by affidavit, shall be transmitted to the Lieutenant-Governor, who shall thereupon issue his proclamation, withdrawing the Town from the jurisdiction of the Council of the County ; Copy of agreement or award to be sent to the Lieut-Governor. Proclamation.

4. After the proclamation has been issued, the offices of Reeve and Deputy Reeve or Deputy Reeves of the Town shall cease ; and no by-law of the Council of the County thereafter made shall have any force in the Town, except so far as relates to the care of the Court House and Gaol, and other County property in the Town ; and the Town shall not thereafter be liable to the County for, or be obliged to pay to the County, or into the County treasury any money for County debts or other purposes, except such sums as may be agreed upon or awarded as aforesaid ; Effect of such proclamation.

New agree-  
ment or award  
after five  
years.

5. After the lapse of five years from the time of the agreement or award, or such shorter time as may be stated in the agreement or award, a new agreement or a new award may be made, to ascertain the amount to be paid by the Town to the County for the expenses of the administration of justice, the use of the Gaol, erection and repairs of the Registry Office or offices, the providing books for the same, and for services for which the County is liable, as required by and under the provisions of any Act respecting the registration of instruments relating to lands;

Property after  
withdrawal.

6. After the withdrawal of a Town from the County, all property theretofore owned by the County, except roads and bridges within the Town, shall remain the property of the County. 36 V. c. 48, s. 20.

Town may  
after five years  
from with-  
drawal pass  
by-law for re-  
union with  
county.

**23.** The Council of any Town which has withdrawn from a County, or Union of Counties, may, after the expiration of five years from such withdrawal, pass a by-law (to be assented to by the electors in manner provided for by this Act in respect of by-laws for creating debts) to re-unite with such County or Union of Counties.

Proviso, that  
by-law shall  
have no effect  
until ratified  
by council of  
county, &c.

2. The said by-law shall have no effect unless ratified and confirmed by the Council of the County or Union of Counties from which the said Town had previously withdrawn, within six months after the passing of the said by-law, and unless the terms and conditions which the Town shall pay, perform, or be subject to, have been previously agreed upon or settled in manner following, that is to say:—

And before by-  
law ratified,  
the amounts of  
the debts of  
town and  
county respec-  
tively shall be  
determined.

3. Before the said by-law is confirmed by the Council of the County, the Councils of the Town and County shall determine by agreement the amounts of the debts of the Town and County respectively which shall be paid or borne by the County after the re-union, or what amount shall be payable by a special rate to be imposed upon the ratepayers of the Town, over and above all other County rates, and all other matters relating to property, assets, or advantages consequent upon such re-union, and as affecting the County or Town respectively, and such other terms or conditions as appear just shall be settled by such agreement; and in default of such agreement being come to within three months after the passing of the by-law by the Council of the Town, the said matters shall be settled by arbitration, as provided by this Act. 36 V. c. 48, s. 21.

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#### DIVISION III.—TOWNSHIPS.

*Townships, how attached to other Municipalities. Sec. 24.*



*When Junior Township may become a separate Corporation. Secs. 25-26.*

*Arrangement of joint assets and debts. Sec. 27.*

*New Townships, union of. Secs. 28-29.*

*Seniority of Townships. Secs. 30-31.*

**24.** In case a Township is laid out by the Crown in territory forming no part of an incorporated County, the Lieutenant-Governor may, by proclamation, annex the Township, or two or more of such Townships lying adjacent to one another, to any adjacent incorporated County, and erect the same into an incorporated Union of Townships with some other Township of such County. 36 V. c. 48 s. 22.

New township beyond limits of incorporated county may be attached to a county by proclamation.

**25.** When a Junior Township of an incorporated Union of Townships has one hundred resident freeholders and householders on the assessment roll as last finally revised and passed, such Township shall, upon the first day of January next after the passing of the proper by-law in that behalf by the County Council, become separated from the Union. 36 V. c. 48, s. 23.

Junior township containing 100 freeholders, &c., may be separated from union.

**26.** In case a Junior Township has at least fifty, but less than one hundred resident freeholders and householders on the last revised assessment roll, and two-thirds of the resident freeholders and householders of the Township petition the Council of the County to separate the Township from the Union to which it belongs, and in case the Council considers the Township to be so situated, with reference to streams or other natural obstructions, that its inhabitants cannot conveniently be united with the inhabitants of an adjoining Township for municipal purposes, the Council may, by by-law, separate the same from the Union; and the by-law shall name the Returning Officer who is to hold, and the place for holding, the first election under the same.

In what cases junior township containing 50 freeholders, &c., but less than 100, may be separated from union,

2. In case two-thirds of the resident freeholders and householders of one or more Junior Townships petition the Council of the County to be separated from the Union to which they belong, and to be attached to some other adjoining Municipality, and in case said Council considers that the interests and convenience of the inhabitants of such Township or Townships would be promoted thereby, they may, by by-law, separate such Township or Townships from said Union, and attach them to some other adjoining Municipality. 36 V. c. 48, s. 24.

and attached to an adjoining municipality.

**27.** After the dissolution of a Union of Townships, the following shall be the disposition of the property of the Union:

Disposition of property upon dissolution of township unions.

1. The real property of the Union situate in the Junior Township shall become the property of the Junior Township;

Real property, 2. The real property of the Union situate in the remaining Township or Townships of the Union shall be the property of the remaining Township or Townships;

Other assets of the corporation. 3. The two Corporations shall be jointly interested in the other assets of the Union, and the same shall be retained by the one, or shall be divided between both, or shall be otherwise disposed of, as they may agree;

Arrangement as to debts. 4. The one shall pay or allow to the other, in respect of the said disposition of the real and personal property of the Union, and in respect to the debts of the Union, such sum or sums of money as may be just;

How to be determined in case of disagreement. 5. In case the Councils of the Townships do not, within three months after the first meeting of the Council of the Junior Township, agree as to the disposition of the personal property of the Union, or as to the sum to be paid by the one to the other, or as to the times of payment thereof, the matters in dispute shall be settled by arbitration under this Act;

Amount agreed to be paid shall bear interest. 6. The amount so agreed upon or settled shall bear interest from the day on which the Union was dissolved; and shall be provided for by the Council of the indebted Township like other debts. 36 V. e. 48, s. 25.

New townships, &c., within the limits of incorporated counties, to be united to adjacent townships, and how. 28. In case a Township is laid out by the Crown in an incorporated County or Union of Counties, or in case there is any Township therein not incorporated and not belonging to an incorporated Union of Townships; the Council of the County or United Counties shall, by by-law, unite such Townships for municipal purposes, to some adjacent incorporated Township or Union of Townships in the same County or Union of Counties. 36 V. e. 48, s. 27.

Townships not incorporated or united may be formed into unions. 29. In case of there being at any time in an incorporated County or Union of Counties two or more adjacent Townships not incorporated, and not belonging to an incorporated Union of Townships; and in case such adjacent Townships have together not less than one hundred resident freeholders and householders within the same, the Council of the County or Union of Counties may, by by-law, form such Townships into an independent Union of Townships. 36 V. e. 48, s. 28.

Seniority of such townships, how regulated. 30. Every proclamation or by-law forming a Union of Townships shall designate the order of seniority of the Townships so united; and the Townships of the Union shall be classed in the by-law according to the relative number of freeholders and householders on the last revised assessment roll, or if there be no such revised assessment roll for any of such Townships, then the order of seniority shall be determined by the proclamation or by-law, as the Lieutenant-Governor or

County Council may think fit. 36 V. c. 48, s. 29; 40 V. c. 8, s. 47

**31.** In case the United Townships are in different Counties the by-law shall cease to be in force whenever the Union of the Counties is dissolved. 36 V. c. 48, s. 30.

Townships  
in different  
counties.

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#### DIVISION IV.—OF COUNTIES.

*Counties, how formed.* Sec. 32.

*Seniority of.* Sec. 33.

*Laws applicable—Venue in Judicial Proceedings.* Sec. 34.

**32.** The Lieutenant-Governor may, by proclamation, form into a new County any new Townships not within the limits of an incorporated County, and may include in the new County one or more unincorporated Townships or other adjacent unorganized territory (defining the limits thereof) not being within an incorporated County, and may annex the new County to any adjacent incorporated County; or in case there is no adjacent incorporated County, or in case the Lieutenant-Governor in Council considers the new County, or any number of such new Counties lying adjacent to one another, and not belonging to any incorporated Union, so situated that the inhabitants cannot conveniently be united with the inhabitants of an adjoining incorporated County for municipal purposes, the Lieutenant-Governor may, by the proclamation, erect the new County, or new adjacent Counties, into an independent County or Union of Counties for the said purposes, and the proclamation shall name the new County or Counties. 36 V. c. 48, s. 31.

New counties  
how formed by  
proclamation,  
and annexed  
or united.

**33.** In every Union of Counties, the County in which the County Court House and Gaol are situate shall be the Senior County, and the other County or Counties of the Union shall be the Junior County or Counties thereof. 36 V. c. 48, s. 32.

Seniority of  
united coun-  
ties, how  
regulated.

**34.** During the union of Counties, all laws applicable to Counties (except as to representation in Parliament or the Legislative Assembly and registration of titles) shall apply to the Union as if the same formed but one County; and in any civil judicial proceedings the venue shall be so laid. 36 V. c. 48, s. 33

Laws applic-  
able to union  
of counties.  
  
Venue.

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#### DIVISION V.—OF PROVISIONAL COUNTY CORPORATIONS.

*Provisional Corporations, formed by separation of Junior County.* Sec. 35.

*Provisional officers.* Secs. 36, 37.



*Property may be acquired for Gaol and Court House.*

*Sec. 38.*

*Powers of Provisional Council not to interfere with united Corporation Sec. 39.*

*Arrangement of joint assets and debts. Secs. 40-42.*

*Officials, when appointed. Sec. 43.*

*Separation, when complete. Secs. 44, 45.*

*Judicial proceedings on separation. Secs. 46-49, and 29-30 V. c. 51, ss. 52, 53, 55.*

Separation of  
united coun-  
ties.

**35.** Where the census returns taken under a statute, or under the authority of a by-law of the Council of any United Counties, show that the Junior County of the Union contains seventeen thousand inhabitants or more, then if a majority of the Reeves and Deputy Reeves of such County do, in the month of February, pass a resolution affirming the expediency of the County being separated from the Union; and if, in the month of February in the following year, a majority of the Reeves and Deputy Reeves transmit to the Lieutenant-Governor in Council a petition for the separation, and if the Lieutenant-Governor deems the circumstances of the Junior County such as to call for a separate establishment of Courts and other County institutions, he may, by proclamation setting forth those facts, constitute the Reeves and Deputy Reeves in that County a Provisional Council, and in the proclamation appoint a time and place for the first meeting of the Council, and therein name one of its members to preside at the meeting, and also therein determine the place for and the name of the County Town. 36 V. c. 48, s. 34.

Appointment  
by proclama-  
tion of pro-  
visional coun-  
cil in junior  
county.

First meeting  
thereof.

County town.

Who to pre-  
side.

**36.** The member so appointed shall preside in the Council until a Provisional Warden has been elected by the Council from among the members thereof. 36 V. c. 48, s. 35.

Appointment  
of provisional  
warden and  
other officers.

Terms of  
office.

**37.** Every Provisional Council shall from time to time by by-law appoint a Provisional Warden, a Provisional Treasurer, and such other provisional officers for the County as the Council deems necessary. The Provisional Warden shall hold office for the municipal year for which he is elected, and the Treasurer and other officers so appointed shall hold office until removed by the Council. 36 V. c. 48, s. 36.

Provisional  
councils may  
acquire lands  
for gaols and  
court houses.

**38.** Every Provisional Council may acquire the necessary property at the County Town of the Junior County on which to erect a Court House and Gaol, and may erect a Court House and Gaol thereon, adapted to the wants of the County, and in conformity with any statutory or other rules and regulations respecting such buildings, and may pass by-laws for such purposes. 36 V. c. 48, s. 37.

Respective  
powers of pro-  
visional coun-

**39.** The powers of a Provisional Council shall not interfere with the powers of the Council of the Union, and any money

raised by the Provisional Council in the Junior County shall be independent of the money raised therein by the Council of the Union. 36 V. c. 48, s. 38.

**40.** After a Provisional Council has procured the necessary property, and erected thereon the proper buildings for a Court House and Gaol, such Council, and the Council of the Senior or remaining Counties, may enter into an agreement for the settlement of their joint liabilities and the disposition of their joint assets (other than real estate), and for determining the balance or amount that may be due by the one County to the other, and the times of payment thereof; and in determining such balance the Senior or remaining Counties shall assume the debts of the Union, and the Junior County be charged with such part thereof as may be just, and the value of the real estate, which, upon the separation, becomes the property of the Senior or Junior County respectively, and any improvement effected by the Union which either County gets the exclusive benefit of, shall also be taken into account. 36 V. c. 48, s. 39.

Agreement upon dissolution as to joint liabilities and joint assets.

Senior county to assume debts of union. Junior county to be charged with just proportion.

**41.** No member of the Provisional Council shall vote or take any part in the Council of the Union on any question affecting such agreement, or the negotiation therefor. 36 V. c. 48, s. 40.

When provisional councilors shall not vote.

**42.** In case the Councils, within one month after the period mentioned in section forty, are unable to determine by agreement the several matters hereinbefore mentioned with respect to their debts, assets and property, such matters shall be settled between them by arbitration under this Act, and the County found liable shall pay to the other County the balance or amount agreed or settled to be due by such County, and such amount shall bear interest at six per centum per annum from the day in which the Union is dissolved, and shall be provided for, like other debts, by the Council of the County liable therefor after separation. 36 V. c. 48, s. 41.

In case of disagreement, disputes to be determined by arbitration.

Payment of amounts found due.

**43.** After the sum, if any, to be paid by the Junior County to the Senior or remaining County or Counties has been paid or ascertained by agreement or arbitration, a Judge may be appointed, as provided by "*The British North America Act, 1867*," and the Lieutenant-Governor or Lieutenant-Governor in Council, as the case may be, shall appoint a Sheriff, one or more Coroners, a Clerk of the Peace, a Clerk of the County Court, a Registrar, and at least twelve Justices of the Peace, and shall provide, in the commission or commissions, that the appointments are to take effect on the day the Counties become disunited. 36 V. c. 48, s. 42.

Terms and time of separation.

Officials appointed.

**44.** After such appointments are made, the Lieutenant Governor shall, by proclamation, separate the Junior County from the Senior or remaining County or Counties, and shall declare such separation to take effect on the first day of January next

Final separation of united counties by proclamation.

Property, how  
divided.

after the end of three months from the date of the proclamation ; and on that day the Courts and officers of the Union (including Justices of the Peace) shall cease to have any jurisdiction in the Junior County ; and the real property of the Corporation of the Union situate in the Junior County shall become the property of the Corporation of the Junior County, and the real property situate in the remaining County or united Counties shall be the property of the Corporation of the remaining County or United Counties ; and the other assets, belonging to the Corporation of the Union, shall belong to and be the property of the Senior or Junior County, or Union of Counties respectively, as agreed upon at the separation ; and, if not otherwise disposed of by agreement or arbitration, they shall belong to and be the property of the Senior County, or Union of Counties ; and in the case of *choses* in action, they may be recovered in a suit, action, or other legal proceeding instituted or commenced in the name of the Senior County or Union of Counties. 36 V. c. 48, s. 43.

Officers and  
property, etc.  
continued.

**45.** When a Junior County is separated from a Union of Counties, the head and members of the Provisional Council of the Junior County, and the officers, by-laws, contracts, property, assets and liabilities of the Provisional Corporation, shall be the head and members of the Council, and the officers, by-laws, contracts, property, assets and liabilities of the new Corporation. 36 V. c. 48, s. 44.

Execution  
and service of  
process in  
hands of  
sheriff at time  
of separation.

**46.** The dissolution of a Union of Counties shall not prevent the Sheriff of any Senior County from proceeding upon and completing the execution or service within the Junior County of any writ of *mesne* or final process in his hands at the time of such separation, or of any renewal thereof, or of any subsequent or supplementary writ in the same cause ; or in the case of executions against lands, from executing all necessary deeds and conveyances relating to the same, and the acts of all such Sheriffs in that behalf shall be and be held and construed to be legal and valid in the same manner and to the same extent as if no separation had taken place, but no further. 36 V. c. 48 s. 45.

Change of  
venue in ac-  
tions, etc., after  
separation.

**47.** If upon a dissolution of a Union of Counties, there is pending an action, or other civil proceeding in which the venue is laid in a County of the Union, the Court in which the action or proceeding is pending, or any Judge who has authority to make orders therein, may, by consent of parties, or on hearing the parties upon affidavit, order the venue to be changed to the new County, and all records and papers to be transmitted to the proper officers of such County. 36 V. c. 48, s. 46.

If no special  
order made,  
proceedings to

**48.** In case no such change is directed, all such actions and other civil proceedings shall be carried on and tried in



the Senior County ; but nothing in this Act contained shall be construed to affect the provisions of sections fifty-two, fifty-three and fifty-five of the Act of the Parliament of the Province of Canada passed in the Session held in the twenty-ninth and thirtieth years of the reign of Her present Majesty, and chaptered fifty-one, so far as the same relate to criminal proceedings. 36 V. c. 48, s. 47.

be carried on in senior county.

Proviso as to criminal proceedings.

[Sections 52, 53 and 55 of 29-30 V. c. 51, are as follows:—

52. If upon the dissolution of a Union of Counties, there is pending an action, information, indictment or other judicial proceeding in which the venue is laid in a County of the Union, the Court in which the action, information or indictment is pending, or any Judge who has authority to make orders therein, may, by consent of parties, or on hearing the parties upon affidavit, order the venue to be changed to the new County, and all records and papers to be transmitted to the proper officers of such County; and in the case of any such indictment found at any Court of Oyer and Terminer and General Gaol Delivery, any Judge of either of the Superior Courts of Common Law may make the order.

Place of trial after dissolution of unions, to be as ordered by the court or a judge.

53. In case no such change be directed, all such actions, informations, indictments and other judicial proceedings shall be carried on and tried in the Senior County.

If no special order is made.

#### PERSONS IN PRISON.

55. Any person charged with an indictable offence, who, at the time of the disuniting of a Junior from a Senior County, is imprisoned on the charge in the Gaol of the Senior County, or is under bail or recognizance to appear for trial at any Court in the Senior County, and against whom no indictment has been found before the disunion takes place, shall be indicted, tried and sentenced in the Senior County, unless a Judge of one of the Superior Courts of Common Law orders the proceedings to be conducted in the Junior County, in which event the prisoner or recognizance (as the case may be) shall be removed to the latter County and the proceedings shall be had therein; and when in any such case the offence is charged to have been committed in a County other than that in which such proceedings are had, the venue may be laid in the proper County, describing it as "formerly one of the United Counties of," &c.]

Indictable offences how to be disposed of.

49. All Courts of the Junior County required to be held at a place certain, shall be held in the County Town of the Junior County. 36 V. c. 48, s. 48.

Place for holding courts in junior county.

#### DIVISION VI.—MATTERS CONSEQUENT UPON THE FORMATION OF NEW CORPORATIONS.

*By-Laws, continuance of existing.* Secs. 50-51.

*Debts and Liabilities how affected.* Secs. 52-56.

*Officials and their sureties, how affected.* Secs. 57-60.

50. In case any Village is incorporated, or Village or Town (with or without additional area) erected into a Town or City, or a Township or County becomes separated, the by-laws in

By-laws in force prior to formation of new corpora-

tions to continue in force until altered by council of such corporation.

force therein respectively shall continue in force until repealed or altered by the Council of the new Corporation; but no such by-laws shall be repealed or altered unless they could have been or can be legally repealed or altered by the Council which passed the same. 36 V. c. 48, s. 51.

What by-laws bind where limits of a municipality are extended.

**51.** In case an addition is made to the limits of any Municipality, the by-laws of such Municipality shall extend to the additional limits, and the by-laws of the Municipality from which the same has been detached shall cease to apply to the addition, except only by-laws relating to roads and streets, and these shall remain in force until repealed by by-laws of the Municipality to which the addition has been made. 36 V. c. 48, s. 52.

Liability for debts at the time of dissolution.

**52.** In the case of the erection of any locality into an incorporated Village, or of a Village into a Town, or of a Town into a City, the Village, Town or City shall remain subject to the debts and liabilities to which such locality was previously liable, in like manner as if the same had been contracted or incurred by the new Municipality; and, after the separation of a County or Township from a Union, each County or Township which formed the Union shall remain subject to the debts and liabilities of the Union, as if the same had been contracted or incurred by the respective Counties or Townships of the Union after the dissolution thereof. 36 V. c. 48, s. 53.

Debts in case of an extension of limits.

**53.** After an addition has been made to a Village, Town or City, the Village, Town or City shall pay to the Township or County from which the additional tract has been taken, such part (if any) of the debts of the Township or County as may be just; and in case the Councils do not, within three months after the first meeting of the Council of the Municipality to which the addition has been made, agree as to the sum to be paid, or as to the time of payment thereof, the matter shall be settled by arbitration under this Act. 36 V. c. 48, s. 54.

Debentures to issue for debts, and to bind the old and new municipalities.

**54.** After the formation of a new Corporation by the dissolution of a Union of Counties or Townships, the Council of the Senior or remaining County or Township shall issue its debentures or other obligations for any part of any debt contracted by the Union for which debentures or other obligations might have been, but had not been, issued before the dissolution: and the debentures or obligations shall recite or state the liability of the Junior County or Township therefor under this Act: and the Junior County or Township shall be liable therefor as if the same had been issued by the Union before the dissolution. 36 V. c. 48, s. 55.

Assessments for year preceding dissolution.

**55.** All assessments imposed by the Council of the then Corporation for the year next before the year in which the new Corporation is formed by separation therefrom, shall belong to

the then Corporation, and shall be collected and paid over accordingly, and after the separation all special rates for the payment of debts theretofore imposed upon the locality by any by-law of the former Corporation shall continue to be levied by the new Corporation; and the Treasurer of the new Corporation shall pay over the amount as received to the Treasurer of the Senior or remaining Municipality, and the latter shall apply the money so received in the same manner as the money raised under the same by-law in the Senior or remaining Municipality. 36 V. c. 48, s. 56.

Special rates for debts continued and to be paid over by treasurer of the junior county.

**56.** In case the amount so paid over as in the last preceding section provided, or to any creditor of the Senior or remaining Municipality, in respect of a liability of the former Corporation, exceeds the sum which, by the agreement or award between the Councils, the new Corporation ought to pay, the excess may be recovered against the Senior or remaining Municipality as for money paid or as for money had and received, as the case may be. 36 V. c. 48, s. 57.

If the sum paid over exceeds the just amount, the excess may be recovered.

Form of action

**57.** In case any Village is incorporated, or any Village or Town is erected into a Town or City, or any Township or County becomes separated, the Council and the members thereof having authority in the locality or Municipality immediately previous, shall, until the Council for the Corporation is organized, continue to have the same powers as before; and all other officers and servants of the locality or Municipality shall, until dismissed, or until successors are appointed, continue in their respective offices, with the same powers, duties and liabilities as before. 36 V. c. 48, s. 58.

Former council and officers to exercise jurisdiction over new municipalities, etc., until new councils are organized.

**58.** The separation of a Junior County or Township from a Union of Counties or Townships shall not in any case or in any manner whatever affect the office, duty, power or responsibility of any public officer of the Union who continues a public officer of the Senior County or Township or remaining Counties or Townships after such separation, or the sureties of any such officer or their liability, further than by limiting such office, duty, power, responsibility, suretyship and liability to the Senior County or Township, or remaining Counties or Townships. 36 V. c. 48, s. 59.

Effect of separation upon public officers and their sureties.

**59.** All such public officers shall, after the separation, be the officers of the Senior County or Township, or remaining Counties or Townships, as if they had originally been respectively appointed public officers for such Senior County or Township or for such remaining Counties or Townships only. 36 V. c. 48, s. 60.

Further as to officers, and

**60.** All sureties for such public officers shall be, and remain liable, as if they had become the sureties for such public officers in respect only of such Senior County or Township, or of such

Their sureties.



Right 'o new  
sureties not  
affected.

remaining Counties or Townships, and all securities which have been given shall, after the separation, be read and construed as if they had been given only for the Senior or remaining County or Counties, or Township or Townships; but nothing herein contained shall affect the right of new securities being required to be given by any Sheriff or by any Clerk or Bailiff, or other public officer, under any statute, or otherwise howsoever. 36 V. c. 48, s. 61.

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## PART II.

### MUNICIPAL COUNCILS, HOW COMPOSED.

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TITLE I.—THE MEMBERS.

TITLE II.—QUALIFICATION, DISQUALIFICATION, AND EXEMPTIONS.

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#### TITLE I.—THE MEMBERS.

DIV. I.—IN COUNTIES.

DIV. II.—IN CITIES.

DIV. III.—IN TOWNS.

DIV. IV.—IN VILLAGES.

DIV. V.—IN TOWNSHIPS.

DIV. VI.—IN PROVISIONAL CORPORATIONS.

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#### DIVISION I.—IN COUNTIES.

*Councils. Sec. 61.*

*Certificate of Qualification. Secs. 62–64.*

Counties.

**61.** The Council of every County shall consist of the Reeves and Deputy Reeves of the Townships and Villages within the County, and of any Towns within the County which have not withdrawn from the jurisdiction of the Council of the County, and one of the Reeves or Deputy Reeves shall be the Warden. 36 V. c. 48, s. 62.

**62.** No Reeve or Deputy Reeve shall take his seat in the County Council until he has filed with the Clerk of the County Council a certificate of the Township, Village or Town Clerk, under his hand, and the seal of the Municipal Corporation, that such Reeve or Deputy Reeve was duly elected, and has made and subscribed the declarations of office and qualification as such Reeve or Deputy Reeve; nor in case of a Deputy Reeve, until he has also filed with the Clerk of the County an affirmation or declaration of the Clerk or other person having the legal custody of the last revised assessment rolls for the Municipality which he represents, that there appear upon such rolls the names of at least five hundred freeholders and householders in the Municipality, possessing the same property qualification as voters, for the first Deputy Reeve elected for such Municipality, and that no alteration reducing the limits of the Municipality, and the number of persons possessing the same property qualification as voters, below five hundred for each additional Deputy Reeve, has taken place since the said rolls were last revised. 36 V. c. 48, s. 63.

County Councils.

Certificates as to election and number of freeholders and householders to be filed by Reeves and Deputy Reeves.

**63.** The certificate firstly above-mentioned may be in the following form:—

Form of certificate as to election, &c.

I, . B., of , Clerk of the Corporation of the Township (Town or Village, as the case may be) of , in the County of , do hereby, under my hand and the seal of the said Corporation, certify that C. D., of , Esquire, was duly elected Reeve (or Deputy Reeve, as the case may be) of the said Township (Town or Village, as the case may be), and has made and subscribed the declarations of office and qualification as such Reeve (or Deputy Reeve, as the case may be).

Given under my hand and the seal of the said Corporation of , at , in the said Township (Town or Village, as the case may be), this day of , A.D. 18 .

{ Seal of the  
Municipal  
Corporation. }

A. B.,  
Township (Town or Village) Clerk.

36 V. c. 48, s. 64.

**64.** The certificate secondly above-mentioned may be in the following form:—

Form of certificate as to number of freeholders and householders.

I, . B., of , Gentleman, Clerk of the Township (Town or Village, as the case may be) of , in the County of , do hereby declare and affirm as follows:—

(1.) That I am the person having the legal custody of the last revised assessment roll for the said Township (Town or Village, as the case may be).

(2.) That there appear upon the said roll the names of at least hundred (five hundred for each Deputy Reeve) freeholders and householders in the said Township (Town or Village, as the case may be), possessing the same property qualification as voters.

(3.) That no alteration reducing the limits of the said Municipality, and the number of persons possessing the same property qualification as voters below                      hundred (*five hundred for each Deputy Reeve*), has taken place since the said roll was last revised.

A. B.

36 V. c. 48, s. 65.

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## DIVISION II.—IN CITIES.

### *Councils.—Sec. 65.*

Cities.

**65.** The Council of every City shall consist of the Mayor, who shall be the head thereof, and three Aldermen for every Ward, to be elected in accordance with the provisions of this Act. 36 V. c. 48, s. 66.

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## DIVISION III.—IN TOWNS.

### *Councils.—Sec. 66.*

Towns.

**66.** The Council of every Town shall consist of the Mayor, who shall be the head thereof, and of three Councillors for every Ward where there are less than five Wards, and of two Councillors for each Ward where there are five or more Wards: and if the Town has not withdrawn from the jurisdiction of the Council of the County in which it lies, then a Reeve shall be added, and if the Town had the names of five hundred freeholders and householders on the last revised assessment roll, possessing the same property qualification as voters (notwithstanding that such persons may not be entitled to be voters), then a Deputy Reeve shall be added, and for every additional five hundred names of persons possessing the same property qualification as voters on such roll, there shall be elected an additional Deputy Reeve. 36 V. c. 48, s. 67.

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## DIVISION IV.—IN INCORPORATED VILLAGES.

### *Councils.—Sec. 67.*

Incorporated  
villages.

**67.** The Council of every incorporated Village shall consist of one Reeve, who shall be the head thereof, and four Councillors, and if the Village had the names of five hundred freeholders and householders on the last revised assessment roll, possessing the same property qualification as voters (notwithstanding that such persons may not be entitled to vote), then of a Reeve, Deputy Reeve and three Councillors, and for every additional five hundred names of persons possessing the same property qualification as voters on such roll (notwith-



standing that such persons may not be entitled to be voters), there shall be elected an additional Deputy Reeve instead of a Councillor. 36 V. c. 48, s. 68; 39 V. c. 7, s. 18.

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DIVISION V.—IN TOWNSHIPS.

*Councils.—Sec. 68.*

**68.** The Council of every Township shall consist of a Reeve, Townships. who shall be the head thereof, and four Councillors, one Councillor being elected for each Ward where the Township is divided into Wards, and the Reeve to be elected by a general vote; but if the Township had the names of five hundred freeholders and householders on the last revised assessment roll, possessing the same property qualification as voters (notwithstanding that such persons may not be entitled to vote), then the Council shall consist of a Reeve, Deputy Reeve, and three Councillors, and for every additional five hundred names of persons possessing the same property qualification as voters on such roll (notwithstanding that such persons may not be entitled to be voters), there shall be elected an additional Deputy Reeve instead of a Councillor. 36 V. c. 48, s. 69; 39 V. c. 7, s. 18.

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DIVISION VI.—IN PROVISIONAL CORPORATIONS.

*Councils.—Sec. 69.*

**69.** The Reeves and Deputy Reeves of the Municipalities Provisional within a Junior County for which a Provisional Council is council how established, shall *ex officio* be the members of the Provisional composed. Council. 36 V. c. 48, s. 70.

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TITLE II.—QUALIFICATION, DISQUALIFICATION,  
AND EXEMPTIONS.

DIV. I.—QUALIFICATION.

DIV. II.—DISQUALIFICATION.

DIV. III.—EXEMPTIONS.

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DIV. I.—QUALIFICATION.

*In each Municipality. Sec. 70.*

*Nature of Estate to be possessed. Sec. 71.*

*Where no Assessment Roll. Sec. 72.*

*Where only one qualified person. Sec. 73.*

Qualification  
of officers, &c.

**70.** The persons qualified to be elected Mayors, Aldermen Reeves, Deputy Reeves, and Councillors of any Municipality shall be such persons as reside within the Municipality, or within two miles thereof, and are natural-born or naturalized subjects of Her Majesty, and males of the full age of twenty-one years, and are not disqualified under this Act, and have, at the time of the election, in their own right, or in the right of their wives, as proprietors or tenants, a legal or equitable freehold or leasehold, or partly freehold and partly leasehold, or partly legal and partly equitable, rated in their own names on the last revised assessment roll of the Municipality to at least the value following:—

In incorporated villages, (1) In incorporated Villages—Freehold to six hundred dollars, or leasehold to twelve hundred dollars;

In towns; (2) In Towns—Freehold to eight hundred dollars, or leasehold to sixteen hundred dollars;

In cities; (3) In Cities—Freehold to one thousand five hundred dollars or leasehold to three thousand dollars;

In townships; (4) In Townships—Freehold to four hundred dollars, or leasehold to eight hundred dollars;

Property of different kinds. And so in the same proportions in all Municipalities, in case the property is partly freehold and partly leasehold. 36 V. c. 48, s. 71.

“Leasehold” defined. **71.** The term “Leasehold” in the foregoing section shall not include a term less than a tenancy for a year, or from year to year; and the qualification of all persons, where a qualification is required under this Act, may be of an estate either legal or equitable, or may be composed partly of each. 36 V. c. 48, s. 72.

In new township not having assessment roll. **72.** In case of a new Township erected by proclamation, for which there has been no assessment roll every person who, at the time of the first election, has such an interest in real property, and to such an amount as hereinbefore mentioned, shall be deemed to be possessed of a sufficient property qualification. 36 V. c. 48, s. 73.

If only one person be qualified.

**73.** In case in a Municipality there are not at least two persons qualified to be elected for each seat in the Council, no qualification beyond the qualification of an elector shall be necessary in the persons to be elected. 36 V. c. 48, s. 74.

## DIVISION II.—DISQUALIFICATION.

*Persons disqualified Sec. 74.*

**74.** No Judge of any Court of civil jurisdiction, no Gaoler or Keeper of a House of Correction, no Sheriff, Deputy Sheriff, Sheriff's Bailiff, High Bailiff or Chief Constable of any City or Town, Assessor, Collector, Treasurer, or Clerk of any Municipality, no Bailiff of any Division Court, no County Crown Attorney, no Registrar, no Deputy Clerk of the Crown, no Clerk of the County Court, no Clerk of the Peace, no Inn-keeper or Saloonkeeper, or Shopkeeper, licensed to sell spirituous liquors by retail, and no person having by himself or his partner an interest in any contract with or on behalf of the Corporation, shall be qualified to be a member of the Council of any Municipal Corporation:

Persons disqualified from being councilors, &c.

2. But no person shall be held to be disqualified from being elected a member of the Council of any Municipal Corporation by reason of his being a shareholder in any incorporated Company having dealings or contracts with the Council of such Municipal Corporation, or by having a lease of twenty-one years or upwards, of any property from the Corporation, but no such leaseholder shall vote in the Council on any question affecting any lease from the Corporation, and no such shareholder on any question affecting the Company. 36 V. c. 48, s. 75.

Proviso: as to shareholders in companies having dealings with corporations and lessees for 21 years from corporation.

## DIVISION III.—EXEMPTIONS.

*Officials and Persons exempted. Sec. 75.*

**75.** All persons over sixty years of age, all Members and officers of the Legislative Assembly of Ontario, and of the Senate or House of Commons of Canada, all persons in the civil service of the Crown, all Judges not disqualified by the last preceding section, all Coroners, all persons in Priests' orders, Clergymen and Ministers of the Gospel of every denomination, all members of the Law Society of Ontario, whether Barristers or Students, all Attorneys and Solicitors in actual practice, all officers of Courts of Justice, all members of the medical profession, whether Physicians or Surgeons, all Professors, Masters, Teachers and other members of any University, College, or School in Ontario, and all officers and servants thereof, all Millers, and all Firemen belonging to an authorized Fire Company—are exempt from being elected or appointed members of a Municipal Council, or to any other municipal office. 36 V. c. 48, s. 76. See also as to Firemen, Rev. Stat. c. 178, ss. 2-4.

Exemptions.

## PART III.

### OF MUNICIPL ELECTIONS.

TITLE I.—ELECTORS.

TITLE II.—ELECTIONS.

TITLE I.—ELECTORS.

DIVISION I.—QUALIFICATION.

*Freehold, Household, Income, or Farmers' Son. Sec. 76.*

*Amount of rating requisite. Sec. 77.*

*Persons in default for non-payment of taxes. Sec. 78.*

*Voter must be named on list of electors. Sec. 79.*

*Where no Assessment Roll. Sec. 80.*

*Case of new Territory added. Secs. 81.*

*Joint or several rating on same property provided for. Secs. 82, 83.*

*Householder, definition of. Sec. 84.*

Qualification  
of electors.

**76.** Subject to the provisions of the next eight sections the right of voting at municipal elections shall belong to the following persons, being males of the full age of twenty-one years, and subjects of Her Majesty by birth or naturalization, being rated to the amount hereinafter provided on the revised assessment roll upon which the voters' list used at the election is based of the Municipality, for real property held in their own right or in the right of their wives, or for income, and having received no reward and having no expectation of reward for voting:

Freeholders.

*Firstly.* All persons, whether resident or not, who are at the date of the election freeholders of the Municipality either in their own right or in the right of their wives;

Householders  
and tenants.

*Secondly.* All residents of the Municipality, who have resided therein for one month next before the election, and who are, or whose wives are, at the date of the election, householders or tenants in the Municipality;

Income voters.

*Thirdly.* All residents of the Municipality at the date of the election, who have continuously resided therein since the completion of the last revised assessment roll therefor, and who are in receipt of an income from some trade, office, calling or profes-



sion, of not less than four hundred dollars. 36 V. c. 48, s. 77 ; 37 V. c. 3, s. 1.

*Fourthly*—All residents of the Municipality at the date of the election who are farmers' sons, and have resided in the Municipality on the farm of their father or mother for twelve months next prior to the return by the Assessors of the assessment roll on which the voters' list used at the election is based. 40 V. c. 9, s. 3. Farmers' Sons

2. If there are more sons than one so resident, and if the farm is not rated and assessed at an amount sufficient, if equally divided between them, to give a qualification to vote to the father and all the sons, where the father is living, or to the sons alone where the father is dead and the mother is a widow, then the right to vote under this Act shall belong to and be the right only of the father and such of the eldest or elder of said sons to whom the amount at which the farm is rated and assessed will, when equally divided between them, give the qualification to vote. 40 V. c. 9, s. 2. When more than one son so resident.

3. If the amount at which the farm is so rated and assessed is insufficient, if equally divided between the father, if living, and one son, to give to each a qualification to vote, then the father shall be the only person entitled to vote in respect of such farm. 40 V. c. 9, s. 2.

4. Occasional or temporary absence from the farm for a time or times not exceeding in the whole four months of the twelve hereinafore mentioned, shall not operate to disentitle a farmer's son to vote. 40. V. c. 9, s. 3. Temporary absence.

5. In this and the four next preceding clauses :

"Farm" shall mean land actually occupied by the owner thereof and not less in quantity than twenty acres ; Interpretation

"Son" or "Sons" or "Farmers' Son" or "Farmers' Sons" shall mean any male person or persons not otherwise qualified to vote, and being the son or sons of an owner and actual occupant of a farm ;

"Father" shall include stepfather ;

"Election" shall mean an election for a member to a Municipal Council ;

"To vote" shall mean to vote at an election ; and

"Owner" shall mean proprietor in his own right or in the right of his wife of an estate for life or any greater estate either legal or equitable, except where the owner is a widow and in

such latter case the word "owner" shall mean proprietor in her own right of any such estate. 40 V. c. 9, s. 1.

Amount of  
rating neces-  
sary.

**77.** In order to entitle any person to vote as aforesaid in respect of real property, such property whether freehold or house-hold or partly each, must be rated at an actual value of not less than the following:

In Townships—One hundred dollars.

In Incorporated Villages—Two hundred dollars.

In Towns—Three hundred dollars.

In Cities—Four hundred dollars. 36 V. c. 48, s. 78.

Persons in de-  
fault for non-  
payment of  
taxes not to  
vote.

**78.** No person who has been returned by the Treasurer or Collector under section one hundred and fifteen as in default for non-payment of his taxes on or before the fourteenth day of December next preceding any election, shall be entitled to vote in respect of income in any Municipality or in respect of real property in Municipalities which have passed by-laws under sections four hundred and sixty-one, subsection two. 36 V. c. 48, s. 77; *See* 38 V. c. 28, s. 8; *and* 39 V. c. 5, s. 9.

Elector must  
be named in  
voter's list.

No question of  
qualification to  
be raised.

**79.** Except in the case of a new Municipality, for which there is no assessment roll, no person shall be entitled to vote at any election, unless he is one of the persons named or purporting to be named in the proper list of voters; and no question of qualification shall be raised at any election, except to ascertain whether the person tendering his vote is the same person as is intended to be designated in the said list of voters. 36 V. c. 48, s. 77; 40 V. c. 12, s. 20; *See* 37 V. c. 3, s. 1.

In newly erect-  
ed municipali-  
ties not having  
any assessment  
roll.

**80.** At the first election of a new Municipality for which there is no separate assessment roll, every resident male inhabitant, though not previously assessed, shall be entitled to vote if he possesses the other qualifications above mentioned, and has at the time of the election sufficient property to have entitled him to vote if he had been rated for such property. *See* 36 V. c. 48, s. 79.

The case of new  
territory added  
to city, town  
or village, or a  
new city, town  
or village erect-  
ed with add-  
ed territory,  
and no voters'  
lists including  
such new ter-  
ritory.

**81.** Where any territory is added for municipal purposes to any City, Town or Village, or where a Town with additional territory is erected into a City, or a Village with additional territory is erected into a Town, or in case a new Village is formed, and an election takes place before voters' lists including the names of persons entitled to vote in such territory are made out for such new or enlarged City, Town or Village, or before such lists are certified by the County Judge, then all persons who would have been qualified as electors in such territory if the same had remained separate from the City, Town or Village, or if such Town or Village had not been erected into a City or Town, or if such Village had not been formed, shall be

entitled to vote in the City, Town or Village at such election.  
38 V.c. 3, s. 16.

**82.** In case both the owner and occupant of any real property are rated severally but not jointly therefor, both shall be deemed rated within this Act. 36 V. c. 48, s. 82.

When owner and occupant severally assessed, both rated.

**83.** Where any real property is owned or occupied jointly by two or more persons, and is rated at an amount sufficient, if equally divided between them, to give a qualification to each, then each shall be deemed rated within this Act, otherwise none of them shall be deemed so rated. 36 V. c. 48, s. 83.

When joint owners or occupants rated, rating to be equally divided.

**84.** Every occupant of a separate portion of a house, such portion having a distinct communication with a public road or street by an outer door, shall be deemed a householder within this Act. 36 V. c. 48, s. 84.

"Householder" defined.

## TITLE II.—ELECTIONS.

DIV. I.—TIME AND PLACE OF HOLDING.

DIV. II.—RETURNING OFFICERS AND DEPUTY RETURNING OFFICERS.

DIV. III.—OATHS TO BE TAKEN.

DIV. IV.—PROCEEDINGS PRELIMINARY TO THE POLL.

DIV. V.—THE POLL.

DIV. VI.—MISCELLANEOUS PROVISIONS.

DIV. VII.—VACANCIES IN COUNCIL.

DIV. VIII.—CONTROVERTED ELECTIONS.

DIV. IX.—PREVENTION OF CORRUPT PRACTICES,

### DIVISION I.—TIME AND PLACE OF HOLDING.

*Time in the respective Municipalities. Sec. 85.*

*In new or altered Municipalities. Sec. 86.*

*Place, how fixed. Sec. 87.*

*In case of separated Townships. Secs. 88, 89.*

*Election Divisions. Secs. 90, 91.*

*Election to be held in Municipality. Sec. 92.*

*Where Elections may not be held. Sec. 93.*

**85.** The electors of every Municipality (except a County) shall elect annually, on the first Monday in January, the members of the Council of the Municipality, except such members as have been elected at the nomination; and the persons so elected shall hold office until their successors are elected or appointed and sworn into office, and the new Council is organized. 36 V. c. 48, s. 85.

Elections to be held annually for members of council of municipalities (except counties). Terms of office



First elections where corporations are newly erected or extended.

Times of elections.

**86.** In case of the incorporation of a new Township or Union of Townships; or of the separation of a Junior Township from a Union of Townships; or of the erection of a locality into an incorporated Village; or of the erection of a Village into a Town or of a Town into a City; or of an additional tract of land being added to an incorporated Village, Town or City, or in case of a new division into Wards of a Town or City, the first election under the proclamation or by-law by which the change was effected shall take place on the first Monday in January next after the end of three months from the date of the proclamation, or from the passing of the by-law by which the change is made, and until such day the change shall not go into effect; but the nomination of candidates and the election of such officers as are unopposed, may, and shall be proceeded with at the same time and in the same manner as if such change had gone into effect on the last Monday of the month of December preceding such first election, or on such other day as the nominations may lawfully be held upon. 36 V. c. 48, s. 86; 40 V. c. 8, s. 49.

Place to be fixed by by-law of municipalities.

**87.** The Council of every City, Town and Village Municipality (including a Village newly erected into a Town, and a Town newly erected into a City), shall from time to time, by by-law, appoint the place or places for holding the next ensuing municipal election, otherwise the election shall be held at the place or places at which the last election for the Municipality or Wards or polling subdivisions was held. 36 V. c. 48, s. 87.

First election in junior townships after separation.

**88.** When in any year a Junior Township of a Union has one hundred resident freeholders and householders on the then last revised assessment roll, the Council of the County shall, by a by-law to be passed before the thirty-first day of October, in the same year, fix the place for holding the first annual election of Councillors in the Township, and appoint a Returning Officer for holding the same, and otherwise provide for the due holding of the election according to law. 36 V. c. 48, s. 88.

Existing ward divisions in united townships to cease on dissolution of union.

**89.** In case of the separation of a Union of Townships, the existing division into Wards, if any, shall cease, as if the same had been duly abolished by by-law, and the elections of Councillors shall be by general vote, until the Township or Townships are divided into polling subdivisions or Wards under the provisions of this Act. 36 V. c. 48, s. 89.

Election of Reeves, &c., in townships and incorporated villages to be by general vote.

**90.** The election in Townships and incorporated Villages of Reeves, Deputy-Reeves and Councillors, shall be by general vote, except in the case of Deputy Reeves and Councillors in Townships divided into Wards, and shall be held at the place or places where the last meeting of the Council was held, or in such other place or places as may be from time to time fixed by by-law. 36 V. c. 48, s. 90.



**91.** In case a majority of the qualified electors of a Township on the last revised assessment roll petition the Council of the Township to divide the Township into Wards, or to abolish or alter any then existing division into Wards, the Council shall, within one month thereafter, pass a by-law to give effect to such petition; and if such petition is for division into Wards, shall divide such Township into Wards, having regard to the number of electors in each Ward, being as nearly equal as may be, and the number of Wards for municipal purposes shall be four in all cases; and where the Township is divided into Wards, and is entitled to one or more Deputy Reeves, the Councillors shall, at their first meeting, elect from among themselves such Deputy Reeve or Reeves. 36 V. c. 48, s. 91.

Upon petition the council may, by by-law, divide townships into wards, &c.

Election of deputy-reeves, &c., in such case.

**92.** Every election shall be held in the Municipality to which the same relates. 36 V. c. 48, s. 92.

Election, where to be held.

**93.** No election of Township Councillors shall be held within any City, Town or incorporated Village, nor shall any election for a Municipality, or any Ward thereof, be held in a tavern or in a house of public entertainment licensed to sell spirituous or fermented liquors. 36 V. c. 48, s. 93.

Not to be held in taverns, etc.

## DIVISION II.—RETURNING OFFICERS AND DEPUTY RETURNING OFFICERS.

*Appointment when election by polling subdivisions. Sec. 94*

*When not, Who ex officio. Sec. 95.*

*Absence, provision for. Sec. 96.*

*Authority of. Secs. 97, 98.*

*Special Constables. Sec. 98.*

**94.** The Council of every Municipality in which the election is to be made by Wards or polling subdivisions, shall, from time to time, by by-law appoint:—

By-law for an election.

(a) The places for holding the nominations for each Wards;

(b) The Returning Officers who shall respectively hold the nominations for each Ward;

(c) The places at which polls will be opened in the Municipality in case a poll is required;

(d) The Deputy Returning Officers who shall preside at the respective polling places. 36 V. c. 48, s. 94; 37 V. c. 16, s. 4.

2. The Clerk of the Municipality shall be the Returning Officer for the whole Municipality, and in the case of a poll being required, the Deputy Returning Officers shall make to him the returns for their respective Wards or polling subdivisions, *See* 40 V. c. 12 s. 13.

Returning officer for elections not by wards or polling subdivisions.

**95.** In the case of a Municipality in which the election is not to be by Wards or polling subdivisions, the Clerk shall be the Returning Officer to hold the nomination of candidates at all elections after the first, and shall also perform all the duties hereinafter assigned to Deputy Returning Officers. 36 V. c. 48, s. 95; *See* 40 V. c. 12, s. 13.

The absence of the returning officer or deputy returning officer provided for.

**96.** In case, at the time appointed for holding a nomination or poll, the person appointed to be Returning Officer or Deputy Returning Officer has died, or does not attend to hold the nomination or poll within an hour after the time appointed, or in case no Returning Officer or Deputy Returning Officer has been appointed, the electors present at the place for holding the nomination or poll may choose from amongst themselves a Returning Officer or Deputy Returning Officer, and such Returning Officer or Deputy Returning Officer shall have all the powers, and shall forthwith proceed to hold the nomination or poll, and perform all the other duties of a Returning Officer or Deputy Returning officer. 36 V. c. 48, s. 96.

Returning officers and deputy returning officers to be conservators of the peace; their powers.

**97.** Every Returning Officer and Deputy Returning Officer shall, during the days of the election, or of the voting of electors upon a by-law, act as a conservator of the peace for the City or County in which the election or voting is held; and he, or any Justice of the Peace having jurisdiction in the Municipality in which the election or voting is held, may cause to be arrested, and may summarily try and punish by fine or imprisonment, or both, or may imprison or bind over to keep the peace, or for trial, any riotous or disorderly person, who assaults, beats, molests or threatens any voter coming to, or remaining at, or going from the election or voting; and, when thereto required, all constables and persons present at the election or voting, shall assist the Returning Officer, or Deputy Returning Officer, or Justice of the Peace. 36 V. c. 48, s. 97.

Special constables may be sworn in.

**98.** Every Returning Officer, or Deputy Returning Officer, or Justice of the Peace may appoint and swear in any number of special constables to assist in the preservation of the peace and of order at an election or at the voting of electors upon a by-law; and any person liable to serve as constable, and required to be sworn in as a special constable by a Returning Officer or Deputy Returning Officer, or Justice, shall, if he refuses to be sworn in or to serve, be liable to a penalty of twenty dollars, to be recovered to the use of any one who will sue therefor. 36 V. c. 48, s. 98.

## DIVISION III.—OATHS.

*In case of freeholders. Sec. 99.*

*In case of householder or tenant. Sec. 100.*

*In case of a person voting on income. Sec. 101.*

*In case of a person voting as a farmer's son. Sec. 102.*

*Administering. Sec. 103.*

**99.** The only oaths or affirmations to be required of any person claiming to vote in respect of a freehold, shall be as follows, or to the like effect :—

Oaths, etc.,  
that may be  
put to person  
claiming to  
vote as a  
freeholder.

You swear (or solemnly affirm) that you are the person named, or purporting to be named, in the list (or supplementary list) of voters now shown to you (*showing the list to the voter*);

That you are a freeholder in your own right (or right of your wife, as the case may require);

That you are a natural born (or naturalized) subject of Her Majesty, and of the full age of twenty-one years;

(*In the case of Municipalities not divided into Wards.*) That you have not voted before at this election, either at this or any other polling place.

(*In the case of Municipalities divided into Wards.*) That you have not voted before at this election, either at this or any other polling place in this Ward and (if the elector is tendering his vote for Mayor, Reeve or Deputy Reeve) that you have not voted before or elsewhere in this Municipality at this election for Mayor, (Reeve or Deputy Reeve as the case may be);

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender at this election;

That you have not received anything, nor has anything been promised to you, directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected with this election;

And that you have not directly or indirectly paid or promised anything to any person either to induce him to vote or refrain from voting at this election : So help you God.

(*In the case of a new Municipality in which there has not been any assessment roll, then instead of referring to the list of voters, the person offering to vote may be required to state in the oath the property in respect of which he claims to vote.*)

In new Municipality where  
no assessment  
roll.

36 V. c. 48, s. 99; 40 V. c. 8, s. 50.

**100.** The oath or affirmation to be required of any person claiming to vote as householder or tenant, shall be as follows, or to the like effect :—

Oath of  
householders  
or tenants.

You swear (or solemnly affirm) that you are the person named or purporting to be named on the list (or supplementary list) of voters now shown to you (*showing the list to the voter*);

That on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_ (*the day certified by the Clerk of the Municipality as the date of the return, or of the final revision and correction, of the assessment roll upon which the voters' list used at the election is based*) you were actually, truly, and in good faith, possessed to your own use and benefit, as tenant or occupant, of the real estate in respect of which your name is entered on the said list;

That you are (or your wife is) a householder or tenant within this Municipality;

That you have been resident within this Municipality for one month next before this election;



That you are a natural-born (or naturalized) subject of Her Majesty and of the full age of twenty-one years ;

*(In the case of Municipalities not divided into Wards.)* That you have not voted before at this election, either at this or any other polling place ;

*(In the case of Municipalities divided into Wards.)* That you have not voted before at this election, either at this or any other polling place in this Ward, and *(if the elector is tendering his vote for Mayor, Reeve or Deputy Reeve)* that you have not voted before or elsewhere in this Municipality at this election for Mayor, *(Reeve or Deputy Reeve as the case may be)* ;

That you have not, directly or indirectly, received any reward or gift, nor do you expect to receive any, for the vote which you tender at this election ;

That you have not received anything nor has anything been promised to you directly or indirectly either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected with this election ;

And that you have not directly or indirectly paid or promised anything to any person either to induce him to vote or refrain from voting at this election : So help you God.

In new Municipality where no assessment roll.

*(In the case of a new Municipality in which there has not been any assessment roll, then instead of swearing to residence for one month next before the election, and referring to the list of voters, the person offering to vote may be required to state in the oath the property in respect of which he claims to vote, and that he is a resident of such Municipality.)*

37 V. c. 16, s. 2 ; 40 V. c. 8, s. 50 ; 40 V. c. 12, s. 15.

Oath of voters on income.

**101.** The oath or affirmation to be required of any person claiming to vote in respect of income shall be as follows :

You swear (or solemnly affirm) that you are the person named (or purporting to be named by the name of ) on the list (or supplementary list) of voters now shown to you *(showing the list to voter)* ;

That on the day of 18 *(the day certified by the Clerk of the Municipality as the date of the final revision and correction of the assessment roll upon which the voters' list used at the election is based)*, you were, and thenceforward have been continuously, and still are, a resident of this Township (City, Town or Village, as the case may be) :

That at the said date, and for twelve months previously, you were in receipt of an income from your trade (office, calling or profession, as the case may be) of a sum of not less than four hundred dollars :

That you are a subject of Her Majesty by birth (or naturalization, as the case may be) ; and are of the full age of twenty-one years ;

*(In the case of Municipalities not divided into Wards.)* That you have not voted before at this election, either at this or any other polling place :

*(In the case of Municipalities divided into Wards.)* That you have not voted before at this election, either at this or any other polling place in this Ward, and *(if the elector is tendering his vote for Mayor, Reeve or Deputy Reeve)* that you have not voted before or elsewhere in this Municipality at this election for Mayor *(Reeve or Deputy Reeve, as the case may be)* ;

That you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected with this election ;

And that you have not, directly or indirectly, paid or promised anything to any person, either to induce him to vote or refrain from voting at this election : So help you God.

37 V. c. 3, s. 4 ; 39 V. c. 5, s. 7 ; 40 V. c. 12, s. 16.

Form of oath of farmer's son.

**102.** The oath or affirmation to be required from a farmer's son claiming to be entitled to vote shall be as follows :—

You swear (or solemnly affirm) that you are the person named (or purporting to be named by the name of ) in the list (or sup-



plementary list) of voters now shown to you (*showing the list to the voter*) ;

That on the                      day of                      , 18    (*the day certified by the Clerk of the Municipality, as the date of the return, or of the final revision and correction, of the assessment roll upon which the voters' list used at the election is based, as the case requires, A. B. (naming him or her), was actually, truly, and in good faith possessed to his (or her) own use and benefit as owner, as you verily believe, of the real estate in respect of which your name is so as aforesaid entered on said list of voters ;*

That you are a son of the said A. B. ;

That you resided on the said property for twelve months next before the said day, not having been absent during that period, except temporarily, and not more than four months in all ;

That you are still a resident of this Municipality, and entitled to vote at this election ;

That you are a subject of Her Majesty by birth (*or naturalization as the case may be*) ; and are of the full age of twenty-one years ;

(*In the case of Municipalities not divided into Wards.*) That you have not voted before at this election, either at this or any other polling place ;

(*In the case of Municipalities divided into Wards.*) That you have not voted before at this election, either at this or any other polling-place in this Ward, and (*if the elector is tendering his vote for Mayor, Reeve or Deputy-Reeve*) that you have not voted before or elsewhere in this Municipality at this election for Mayor, (Reeve, or Deputy Reeve *as the case may be*) ;

That you have not received anything, nor has anything been promised you directly or indirectly either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected with this election ;

And that you have not directly or indirectly paid or promised anything to any person either to induce him to vote or refrain from voting at this election :

So help you God.

40 V. c. 9, s. 9.

**103.** Such oaths or affirmations shall be administered by the Returning Officer or Deputy Returning Officer as the case may be, at the request of any candidate or his authorized agent, and no inquiries shall be made of any voter, except with respect to the facts specified in such oaths or affirmations. 36 V. c. 48, s. 101.

When and how oaths are to be administered.

#### DIVISION IV.—PROCEEDINGS PRELIMINARY TO THE POLL.

*Nomination Meetings.* Secs. 104, 106, 107.

*Presiding Officer.* Secs. 105, 107, 110.

*Provision for Christmas Day.* Sec. 108.

*Interval between Nomination and Election in case of remote Townships.* Sec. 109.

*Notice of Nomination.* Sec. 111.

*Proceedings at Nomination.* Sec. 112.

*Resignations—Notification as to Candidates.* Sec. 113.

*Poll, when and where to take place.* Sec. 112.

*Votes to be given by Ballot.* Sec. 114.

*List of Defaulters in payment of Taxes.* Sec. 115.

*Ballot Boxes.* Sec. 116.

*Ballot Papers.* Secs. 117, 118, 119, 120.

*Polling Places.* Sec. 121.

*What to be furnished to Deputy Returning Officers. Secs. 120, 122, 125, 127, 128, 132.*

*Placards to be posted. Sec. 123.*

*Voters' and Defaulters' Lists. Secs. 124-130.*

*Certificates as to the Assessment Roll. Sec. 131.*

*Where Electors to vote. Secs. 133-137.*

Annual meeting for nomination of mayor, reeve, deputy reeve, etc.

**104.** A meeting of the electors shall take place for the nomination of candidates for the office of Mayor in Cities, and for Mayor, Reeve and Deputy Reeves in Towns, at the hall of the Municipality, on the last Monday in the month of December, annually, at ten of the clock in the forenoon, and the Deputy Reeves shall be designated as first, second, third, &c., according to the number to be elected. 36 V. c. 48, s. 102.

The Clerk to preside.

**105.** The Clerk of the Municipality shall be the Returning Officer to preside at such meeting, or in case of his absence, the Council shall appoint a person to preside in his place; and if the Clerk or the person so appointed does not attend, the electors present shall choose a chairman or person to officiate from among themselves, and such Clerk or chairman shall have all the powers of a Returning Officer. 36 V. c. 48, s. 103.

Chairman.

Nomination meetings in cities, towns, etc.

**106.** A meeting of the electors shall take place for the nomination of candidates for the offices of Aldermen in Cities, Councillors in Towns, and of Reeves, Deputy Reeves and Councillors in Townships not divided into Wards, and incorporated Villages at noon, on the last Monday in December, annually, at such place therein, and in Cities and Towns, at such places in each Ward thereof, as may from time to time be fixed by by-law, and the Deputy Reeves shall be designated as first, second, third or fourth, according to the number to be elected. 37 V. c. 16, s. 3.

In townships divided into wards.

**107.** In Townships divided into Wards, the nomination of candidates for the office of Reeve shall be held at ten of the clock in the forenoon on the last Monday in December, at such place in the Township as may from time to time be fixed by by-law, and the Township Clerk shall preside: the nomination of candidates for the office of Councillor, to be elected for each Ward, shall take place at noon, at such place in the Township or in each Ward as may be fixed by by-law. 37 V. c. 16, s. 3.

If nomination day falls on Christmas Day.

**108.** When the last Monday in December happens to be Christmas Day, the nomination of candidates for the offices of Mayor and Aldermen in Cities, and of Mayor, Reeve, Deputy Reeve and Councillors in other Municipalities, shall take place on the preceding Friday, at the times and places and in the manner prescribed by law. 39 V. c. 7, s. 20.

County council may by by-law, lengthen time between

**109.** Every County Council may, by by-law, made on or before the first day of July in any year provide that the day for the nomination of candidates for Reeve, Deputy Reeves, and

Councillors in Townships situate in remote parts of the County shall be upon the last Monday but one in December, but all the other provisions of law relating to municipal elections shall apply to the elections in such Townships. nomination and polling in remote townships.

2. Forthwith, after the passing of such by-law, the County Clerk shall transmit a copy thereof to the Clerks of the Townships to which the same relates. 40 V. c. 8, s. 48. Copy of by-law to be sent to townships affected.

**110.** The Returning Officer appointed for each Ward, as in the ninety-fourth section mentioned or the Clerk as the case may be shall respectively preside at the meeting for the nomination of candidates, and in case of the absence of such presiding officer, the meeting may choose a chairman. 36 V. c. 48, s. 105, *part*. Presiding officer.

**111.** The Clerk or other Returning Officer whose duty it is to preside at the meeting for the nomination of candidates shall give at least six days' notice of such meeting. 36 V. c. 48, s. 105, *part*. Notice of nomination meeting.

**112.** At the said meetings, the person or persons to fill each office shall be proposed and seconded *seriatim*; and if no other candidate but one for any particular office is proposed, the Clerk or other Returning Officer or chairman shall, after the lapse of one hour from the time fixed for holding the meeting, declare such candidate duly elected for such office. But if two or more candidates are proposed for any particular office, and if a poll is required by them respectively, or by any elector, the Clerk or other Returning Officer or chairman shall adjourn the proceedings for filling such office until the first Monday in January next thereafter, when a poll or polls shall be opened in each Ward or polling subdivision, at such place or places respectively as may be fixed by the by-law of the said Councils for the election, at nine of the clock in the morning, and shall continue open until five of the clock in the afternoon, and no longer. 36 V. c. 48, s. 106. Nomination and proceedings incident thereto.

**113.** At the nomination meeting, any person proposed for one or more offices may resign, or elect for which office he is to remain nominated; and in default, he shall be taken as nominated for the office in respect of which he was first proposed and seconded; the Clerk or other Returning Officer or chairman shall, on the day following that of the nomination, post up in the office of the Clerk of the Municipality the names of the persons proposed for the respective offices. 36 V. c. 48, s. 108. Any person proposed may resign, etc.; in default to be taken as nominated.

**114.** In case of a poll at an election of persons to serve in Municipal Councils, the votes shall be given by ballot. 38 V. c. 28, s. 1. Notices of person proposed.

Votes to be by ballot.



*Preparation of Defaulters' Lists.*

List of defaulters in payment of taxes.

**115.** On or before the day of nomination of candidates, if the Collectors's roll has been returned to the Treasurer of the Municipality, the Treasurer shall prepare and verify on oath, or if the Collector's roll has not been so returned, the Collector shall prepare and verify on oath, a correct alphabetical list of—

(a) All persons who, being on the voters' list (that is to say the first and second parts thereof) by reason of their income only, have not paid their municipal taxes on such income on or before the fourteenth day of December preceding the election; and

(b) (In Municipalities which have passed by-laws under subsection two of section four hundred and sixty-one of this Act, all persons on the voters's list (that is to say the first and second parts thereof), who have been assessed for real property, but have not paid their municipal taxes on such property on or before the fourteenth day of December preceding the election. 40 V. c. 12, s. 6.

List to be made for each polling division.

2. Where a Municipality is divided into polling sub-divisions, such a list of defaulters shall be made for each polling sub-division. 40 V. c. 12, s. 7.

Certified copies to be furnished.

3. The person preparing the said defaulters' lists, shall furnish to all persons applying for the same, certified copies thereof and of the affidavit verifying the same, in the same manner and for the same compensation as copies of the voters' list are to be furnished. 40 V. c. 12, s. 8.

*Ballot Boxes.*

Ballot boxes to be furnished.

**116.** Wherever a poll is required, the Clerk of the Municipality shall procure or cause to be procured as many boxes (hereinafter called ballot boxes) as there are Wards or polling subdivisions within the Municipality.

How made.

2. The ballot boxes shall be made of some durable material, shall be provided with a lock and key, and shall be so constructed that the ballot paper can be introduced therein, and cannot be withdrawn therefrom unless the box be unlocked.

Delivery of to deputy returning officers.

3. When it becomes necessary for the purposes of an election to use the ballot boxes, it shall be the duty of the Clerk of the Municipality, two days at least before the polling day, to deliver one of the ballot boxes to every Deputy Returning Officer appointed for the purposes of the election.

Delivery to clerk for future elections.

4. The ballot boxes, when returned to the Clerk after the election, shall be preserved by him for use at elections for the



Municipality; and it shall be the duty of the Clerk to have ready for use, at all times, as many ballot boxes as there are Wards or polling subdivisions in the Municipality.

5. If the Clerk fails to furnish ballot boxes in the manner herein provided, he shall incur a penalty of one hundred dollars in respect of every ballot box which he has failed to furnish in the manner prescribed. Penalty on failure to furnish boxes.

6. It shall be the duty of the Deputy Returning Officer in every Ward or polling subdivision not supplied with a ballot box within the time prescribed, forthwith to procure one to be made, and he may issue his order upon the Treasurer of the Municipality in which such Ward or polling subdivision is situate for the cost of the ballot box, and the Treasurer shall pay to the Deputy Returning Officer the amount of the order Deputy returning officers may procure boxes.  
38 V. c. 28, s. 2.

### *Ballot Papers.*

117. Where a poll is required, the Clerk of the Municipality shall forthwith cause to be printed, at the expense of the Municipality, such a number of ballot papers as will be sufficient for the purposes of the election. Ballot papers to be printed.

2. Every ballot paper shall contain the names of the duly nominated candidates, arranged alphabetically in the order of their surnames; or if there are two or more candidates with the same surname, then in the order of their other names. 38 V. c. 28, s. 3. Contents and form of ballot papers.

118. The names of the candidates for Mayor in Cities, and for Mayor, Reeve and Deputy Reeve in Towns, shall not be included in the same ballot paper with the names of the candidates for Aldermen and Councillors respectively; but Different sets of ballot papers to be prepared.

2. In Cities one kind or set of ballot papers shall be prepared for all the Wards or polling subdivisions, containing the names of the candidates for Mayor, and another kind or set shall be prepared for each Ward or polling subdivision containing the names of the candidates for Aldermen in the Ward; and In cities.

3. In Towns one kind or set of ballot papers shall be prepared for all the Wards or polling subdivisions, containing the names of the candidates for Mayor and Reeve and Deputy Reeve, and another kind or set shall be prepared for each Ward or polling subdivision, containing the names of the candidates for Councillors in the Ward; and In towns.

4 In Townships divided into Wards, one kind or set of Townships

divided into wards.

ballot papers shall be prepared for all the Wards, containing the names of the candidates for Reeve, and another kind or set shall be prepared for each Ward, containing the names of the candidates for Councillors in the Ward. 39 V. c. 5, s. 1.

Form of ballot papers.

**119.** The ballot papers shall be in the form of Schedule A to this Act. 39 V. c. 5, s. 2.

### *Polling Places.*

Clerk to furnish deputy returning officers with ballot papers, etc.

**120.** In case of Municipalities which are divided into Wards or polling subdivisions, the Clerk of the Municipality shall, before the opening of the poll, deliver or cause to be delivered to every Deputy Returning Officer the ballot papers which have been prepared for use in the Ward or polling subdivision for which such Deputy Returning Officer has been appointed to act, and shall also furnish to the Deputy Returning Officer or see that he is furnished with the necessary materials for voters to mark the ballot papers; and such materials shall be kept at the polling place by the Deputy Returning Officer for the convenient use of voters. 38 V. c. 28, s. 5.

Compartments wherein voters may mark votes.

**121.** Every polling place shall be furnished with a compartment in which the voters can mark their votes screened from observation; and it shall be the duty of the Clerk of the Municipality and Deputy Returning Officers respectively, to see that a proper compartment for that purpose is provided at each polling place. 38 V. c. 28 s. 4.

### *Directions to Voters.*

Clerk to furnish deputy returning officer with directions for voters' guidance.

**122.** In case of Municipalities divided into Wards or polling subdivisions, the Clerk of the Municipality shall, before the opening of the poll, deliver or cause to be delivered to every Deputy Returning Officer such a number of printed directions, for the guidance of voters in voting, as he may deem sufficient, and shall so deliver or cause to be so delivered at least ten copies of such printed directions; such directions shall be printed in conspicuous characters, and may be according to the form in Schedule B to this Act. 38 V. c. 28, s. 6.

Deputy returning officers to placard the directions.

**123.** Every Deputy Returning Officer shall before the opening of the poll, or immediately after he has received such printed directions from the Clerk of the Municipality, if he did not receive the same before the opening of the poll, cause such printed directions to be placarded outside the polling place for which he is appointed to act, and also in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 38 V. c. 28, s. 7.

*Voters' and Defaulters' Lists.*

**124.** Subject to the provisions of the three next sections, the proper voters' list to be used at an election. and second parts of the last list of voters certified by the Judge and delivered or transmitted to the Clerk of the Peace under Rev. Stat. c. 9. "*The Voters' Lists Act.*" 40 V. c. 12, s. 20.

**125.** For the first election of a new Municipality for which there is no separate assessment roll, the Clerk of the Municipality shall provide each Deputy Returning Officer with a poll book, prepared according to the form of Schedule C. to this Act instead of a voters' list, and either the Deputy Returning Officer or his sworn Poll Clerk shall therein enter, in the proper column, the names of each person offering to vote, and at the request of any candidate or voter, shall note the property on which the person claims to vote opposite his name. See 36 V. c. 48, s. 79; 38 V. c. 28, s. 8; and 39 V. c. 5, s. 9. For first election in new municipality.

**126.** Where any territory is added for municipal purposes, to any City, Town, or Village, or where a Town with additional territory is erected into a City, or a Village with additional territory is erected into a Town, or where a new Village is formed, and an election takes place before voters' lists including the names of the persons entitled to vote in such territory are made out, or before such lists are certified by the County Judge—in all such cases, the Clerk of the new or enlarged City, Town, or Village, shall extract the names of the several persons who would be entitled to vote in the territory composing or added to (as the case may be) the City, Town, or Village if such territory had remained separate from the City, Town, or Village, from the last filed or certified voters' list of the Municipality or Municipalities to which such territory formerly belonged, containing the names of the persons entitled to vote in respect of such territory, and shall place such names in lists or supplementary lists (as the case may be). Voter's lists in cases under section 81.

2. Such lists or supplementary lists shall be made in the form of Schedule C to this Act, and shall be signed by the Clerk, and delivered by him to the proper Deputy Returning Officers for the purpose of enabling the persons named in such lists to vote at the election. 38 V. c. 3, ss. 16, 17; See 36 V. c. 48, s. 79.

**127.** In any Municipality for which there is a separate assessment roll, but for which no voters' list for the Municipality has been filed with the Clerk of the Peace or certified by the County Judge under "*The Voters' Lists Act,*" the Clerk of the Municipality shall, before the poll is opened, prepare and deliver to the Deputy Returning Officer for every or any Ward List of Voters. Rev. Stat. c. 9.



or polling subdivision, a list in the form of Schedule C to this Act, containing the names, arranged alphabetically, of all male persons appearing by the then last revised assessment roll to be entitled to vote in that Ward or polling subdivision, and shall attest the said list by his solemn declaration in writing under his hand;

Persons in arrears for taxes shall be excluded from list.

2. In the case of

(a.) Income voters, and

(b) Persons assessed for real property, if the Municipality has passed a by-law under sub-section two of section four hundred and sixty-one of this Act,

the Clerk shall exclude from such list such persons as may be returned to him by the Treasurer as being in default for not having paid their municipal taxes respectively on or before the fourteenth day of December preceding the election; and every list of voters so prepared shall be the proper voters' list to be used at the election. 38 V. c. 28, s. 8; 39 V. c. 5, s. 6 (1) & s. 9.

Delivery of copies of voters' list and defaulters' list to deputy returning officers.

**128.** In the case of Municipalities which are divided into Wards or polling sub-divisions, the Clerk of the Municipality shall, before the poll is opened, deliver to the Deputy Returning Officer for each Ward or polling sub-division, a copy, according to the form of Schedule C to this Act, certified to be correct, of the proper list of voters for the Ward or polling sub-division under the one hundred and twenty-fourth and following sections: and also a copy of the proper defaulters' list for the polling sub-division, certified by the Treasurer or Collector pursuant to section one hundred and fifteen of this Act. 40 V. c. 12, s. 9. See 39 V. c. 5, s. 5 (2).

Copies may be obtained from Clerk of Peace.

**129.** The copies of the voters' lists in the last section mentioned, may be prepared by the Clerk of the Municipality, or may be procured from the Clerk of the Peace, if filed under "*The Voters' Lists Act*," and in the latter case the Clerk of the Peace shall be entitled to receive the sum of six cents for every ten voters whose names are on the list. 40 V. c. 12, s. 10.

Defaulters' list to be evidence for deputy returning officer as to payment of taxes.

**130.** The defaulters' lists furnished and verified by the Treasurer or Collector as aforesaid, shall be the evidence on which the Deputy Returning Officers shall act in ascertaining the payment or non-payment of taxes by persons claiming to vote in respect of income, or in respect of real property, in the cases mentioned in section one hundred and fifteen of this Act. 40 V. c. 12, s. 11.

#### *Certificates as to Assessment Roll.*

Clerk to give certificate of dates of re-

**131.** The Clerk of the Municipality shall before the opening of the poll, deliver or cause to be delivered to every Deputy



Returning Officer a certificate (which may be in the form of turn and final Schedule D to this Act), of (1) the day when the assessment revision of roll upon which the voters' list to be used at the election is assessment roll. based, was returned by the Assessor, and also (2) of the day when the said assessment roll was finally revised and corrected.

2. The Clerk shall also give such certificate upon payment <sup>Fee.</sup> of the sum of twenty-five cents, to any person applying for the same, under a penalty of two hundred dollars in case of neglect or refusal.

3. Such certificate, when delivered to the Deputy Returning Officer, shall be the evidence upon which he shall act in inserting in the oath to be administered to voters the date of the return or final revision and correction of the assessment roll as the case may be.

4. An assessment roll shall be understood to be finally revised and corrected when it has been so revised and corrected by the Court of Revision for the Municipality, or by the Judge of the County Court in case of an appeal, as provided by "*The Assessment Act*," or when the time during which such appeal <sup>To be evidence of such date at the poll.</sup> <sup>Rev. Stat. c. 180.</sup> may be made has elapsed, and not before. 40 V. c. 12, s. 12.

**132.** In case of Municipalities which are not divided into Wards or polling subdivisions, the Clerk shall perform the duties which in other cases are performed by Deputy Returning Officers, and shall provide himself with the necessary ballot papers, and also with the materials for marking ballot papers, printed directions before mentioned; copies of the voters' list and defaulters' list, and certificate of the dates of the return and final revision of the assessment roll, similar to those required to be furnished to Deputy Returning Officers; and the Clerk shall perform the like duties with respect to the whole Municipality as are imposed upon a Deputy Returning Officer in respect of a Ward or polling subdivision. 38 V. c. 28, s. 9; 40 V. c. 12, s. 14 (2). <sup>Municipalities not divided into wards or polling subdivisions, clerk to perform duties of deputy returning officers.</sup>

*Where Electors to vote.*

**133.** In Towns and Cities, every elector may vote in each Ward in which he has been rated for the necessary property qualification, but in case of Mayor of Cities, Mayor, Reeve or Deputy Reeve of Towns, the elector is limited to one vote. <sup>When electors shall vote in towns and cities.</sup> 36 V. c. 48, s. 80.

**134.** In Townships and incorporated Villages divided into Wards or polling subdivisions, no elector shall vote in more than one Ward or polling subdivision for the same candidate. <sup>When electors may vote in townships and villages.</sup> 36 V. c. 48, s. 81.

Where persons are to vote for mayor reeve, and deputy reeve. **135.** Every elector who is entitled to a vote in more than one Ward or polling subdivision shall vote for Mayor in Cities, and for Mayor, Reeve and Deputy Reeve in Towns, and for Reeve in Townships divided into Wards, at the polling place of the Ward or polling subdivision in which he is resident, if qualified to vote therein; or otherwise where he first votes, and there only. 39 V. c. 5, s. 3.

Penalty for voting twice for mayor, reeve or deputy reeve.

**136.** Any person who votes for Mayor, Reeve, or in Towns or Townships for Deputy Reeve, after having already voted for Mayor, Reeve or Deputy Reeve at some other polling place at that election, shall incur a penalty of fifty dollars, to be recovered, with full costs of suit, by any person who will sue for the same by action of debt in the Division Court having jurisdiction where the offence was committed; and any person against whom judgment is rendered shall be ineligible either as a candidate or elector at the next annual elections. 39 V. c. 5, s. 4.

Deputy returning officers and agents may vote at polling place where they are employed.

**137.** The Clerk of the Municipality, on the request of any elector entitled to vote at one of the polling places, who has been appointed Deputy Returning Officer or Poll Clerk, or who has been named as an agent of a candidate to attend at any polling place other than the one where he is entitled to vote, shall give to such elector a certificate that he is entitled to vote at the polling place where he is to be stationed during the polling day; and such certificate shall also state the property or other qualification in respect of which he is entitled to vote.

2. On the production of such certificate, such Deputy Returning Officer, Poll Clerk or agent shall have the right to vote at the polling place where he is stationed during the polling day, instead of at the polling station where he would otherwise have been entitled to vote; and the Deputy Returning Officer shall attach the certificate to the voters' list: but no such certificate shall entitle any such elector to vote at such polling place unless he has been actually engaged as such Deputy Returning Officer, Poll Clerk or agent during the day of polling; nor to vote for Aldermen in Cities, or Councillors in Municipalities divided into Wards, except in the Ward where he would otherwise be entitled so to vote.

Who to administer oath.

3. In case of a Deputy Returning Officer voting at the polling station where he has been appointed, the Poll Clerk appointed to act at such polling place, or in the absence of the Poll Clerk any elector authorized to be present, may administer to such Deputy Returning Officer the oath required by law to be taken by voters. 39 V. c. 5, s. 10.

#### DIVISION V.—THE POLL.

*Ballot box to be exhibited. Sec. 138.*

*How votes to be received. Secs. 139, 140.*

*How ballot paper to be marked. See. 141.*

*Exclusion from balloting compartment. Sec. 142.*

*Ballot papers not to be taken away. Sec. 143.*

*Proceedings in case of incapacity to mark ballot. See. 144.*

*Ballot paper inadvertently spoiled. Sec. 145.*

*Who may be present in polling place. See. 146.*

*Counting the votes—Objections—Statement. See. 147.*

*Who may be present at the counting of the votes. See. 148.*

*Certificates of state of Poll to be given. Sec. 149.*

*Packets to be made up and returned—Ballot Paper Account—Returns, etc. Sec. 150.*

*Clerk to cast up votes. Sec. 151.*

*And may vote in case of tie. Sec. 152.*

*Provision in case of riot, etc. Secs. 153, 154.*

*Declaration by Clerk. Sec. 155.*

*Oaths of office to be taken. Sec. 156.*

**138.** The Deputy Returning Officer shall, immediately before the commencement of the poll, show the ballot box to such persons as are present in the polling place, so that they may see that it is empty, and he shall then lock the box and place his seal upon it in such manner as to prevent its being opened without breaking the seal; and he shall then place the box in his view for the receipt of ballot papers, and shall keep it so locked and sealed. 38 V. c. 28, s. 10.

Deputy re-  
turning officer  
to show box  
empty, lock  
and seal it.

**139.** Where any person claiming to be entitled to vote presents himself for the purpose of voting, the Deputy Returning Officer shall proceed as follows:

Conduct of de-  
puty returning  
officer on ten-  
der of vote

1. He shall ascertain that the name of such person is entered, or purports to be entered upon the voters' list for the Ward or polling subdivision for which such Deputy Returning Officer is appointed to act.

Name.

2. He shall record or cause to be recorded in the proper column of the voters' list, the residence and the legal addition of such person.

Recording.

3. If such person shall take the oath or affirmation required to be taken by voters in the manner directed by sections ninety-nine to one hundred and two inclusive of this Act, the Deputy Returning Officer shall enter or cause to be entered opposite such person's name, in the proper column of the said voters' list, the word "*Sworn*," or "*Affirmed*," according to the fact.

Oath.

4. Where the vote is objected to by any candidate or his agent, the Deputy Returning Officer shall enter the objection, or cause the same to be entered in the voters' list, by writing opposite the name of such person, in the proper column, the

Objection.



words "*Objected to*," stating at the same time by which candidate or on behalf of which candidate the objection has been made, by adding after the words "*Objected to*" the name only of such candidate.

Refusal to take  
the oath.

5. Where such person as aforesaid has been required to take the oath or affirmation, and refuses to take the same, the Deputy Returning Officer shall enter or cause to be entered opposite the name of such person, in the proper column of the voters' list, the words "*Refused to be Sworn*," or "*Refused to Affirm*," according to the fact; and the vote of such person shall not be taken or received; and if the Deputy Returning Officer takes or receives such vote, or causes the same to be taken or received, he shall incur a penalty of two hundred dollars.

Deputy re-  
turning officer  
to sign name  
on ballot  
paper.

6. Where the proper entries respecting the person so claiming to vote have been made in the voters' list in the manner prescribed, the Deputy Returning Officer shall sign his name or initials upon the back of the ballot paper.

Delivery of  
paper to voter.

7. The ballot paper shall be delivered to such person,

Deputy re-  
turning officer  
to explain  
mode of voting

8. The Deputy Returning Officer may, and upon request shall, either personally or through his sworn Poll Clerk, explain to the voter, as concisely as possible, the mode of voting.  
38 V. c. 28, s. 11.

Deputy  
returning  
officer to  
state in list  
that a ballot  
paper given.

**140.** The Deputy Returning Officer shall place, or cause to be placed, in the columns of the voters' list, headed "*Mayor*," "*Reeve*" (or "*Mayor and Reeve*") , "*Alderman*," and "*Councillor*," as the case may be, a mark opposite the name of every voter receiving a ballot paper, to denote that the voter has received a ballot paper for Mayor, Reeve, Alderman or Councillor, as the case may be. 39 V. c. 5. s. 5 (2).

Voting, mark-  
ing ballot  
paper.

**141.** Upon receiving from the Deputy Returning Officer the ballot paper so prepared as aforesaid, the person receiving the same shall forthwith proceed into the compartment provided for the purpose, and shall then and therein mark his ballot paper in the manner mentioned in the directions contained in Schedule B to this Act, by placing a cross on the right-hand side, opposite the name of any candidate for whom he desires to vote, thus x; and he shall then fold the ballot paper across, so as to conceal the names of the candidates, and the marks upon the face of such paper, and so as to expose the initials of the Deputy Returning Officer, and leaving the compartment, shall, without delay, and without showing the front to any one or so displaying the ballot paper as to make known to any person the names of



the candidates for or against whom he has marked his vote, deliver such ballot paper so folded to the Deputy Returning Officer, who shall, without unfolding the same, or in any way disclosing the names of the candidates, or the marks made by such elector, verify his own initials, and at once deposit the same in the ballot box in the presence of all persons entitled to be present and then present in the polling place; and the voter shall forthwith leave the polling place. 38 V. c. 28, s. 12.

**142.** While any voter is in any balloting compartment for the purpose of making his ballot paper, no other person shall be allowed to enter the compartment, or to be in any position from which he can observe the mode in which the voter marks his ballot paper. 38 V. c. 28, s. 13.

Exclusion  
from balloting  
compartment.

**143.** No person who has received a ballot paper from the Deputy Returning Officer shall take the same out of the polling place; and any person having so received a ballot paper, who leaves the polling place without first delivering the same to the Deputy Returning Officer in the manner prescribed, shall thereby forfeit his right to vote; and the Deputy Returning Officer shall make an entry in the voters' list, in the column for remarks, to the effect that such person received a ballot paper, but took the same out of the polling place, or returned the same, declining to vote, as the case may be; and in the latter case the Deputy Returning Officer shall immediately write the word "*Declined*" upon such ballot paper, and shall preserve the same; and in case the Clerk of the Municipality is not himself performing the duties of Deputy Returning Officer, the Deputy Returning Officer shall return said ballot paper to the Clerk of the Municipality, as hereinafter directed. 38 V. c. 28, s. 14.

Voter not to  
take his paper  
from polling  
place.

**144.** In case of an application by any person claiming to be entitled to vote, who is incapacitated by blindness or other physical cause from marking his ballot paper, or in case of any person claiming to be entitled to vote who makes a declaration that he is unable to read, the proceedings shall be as follows:—

Proceedings in  
case of incapa-  
city to mark  
paper.

1. The Deputy Returning Officer shall, in the presence of the agents of the candidates, cause the vote of such person to be marked on a ballot paper in manner directed by such person, and shall place the ballot paper in the ballot box.

2. The Deputy Returning Officer shall state or cause to be stated in the voters' list, by an entry opposite the name of such person in the proper column of the said voters' list, that the vote of such person is marked in pursuance of this section, and the reason why it is so marked.

3. The declaration of inability to read, or of incapacity to mark a ballot paper, may be in the form of Schedule E to this Act, and shall be made by the person claiming to be entitled to vote, at the time of the polling, before the Deputy Returning Officer, who shall attest the same as nearly as may be according to the form given in Schedule F to this Act, and the said declaration shall be given to the Deputy Returning Officer at the time of voting. 38 V.c. 28, s. 15.

Proceedings in case ballot paper cannot be used.

**145.** A person claiming to be entitled to vote, who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the Deputy Returning Officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the Deputy Returning Officer, obtain another ballot paper in the place of the ballot paper so delivered up, and the Deputy Returning Officer shall immediately write the word "*Cancelled*" upon such ballot paper, and preserve the same; and in case the Clerk of the Municipality is not himself performing the duties of Deputy Returning Officer, the Deputy Returning Officer shall return said ballot paper to the Clerk of the Municipality, as hereinafter directed. 38 V. c. 28, s. 16.

Who may be present at polling place.

**146.** During the time appointed for polling no person shall be entitled or permitted to be present in any polling place, other than the officers, candidates, clerks or agents authorized to attend at such polling place, and such voter as is for the time being actually engaged in voting: it shall at all times be lawful for the Deputy Returning Officer to have present or to summon to his assistance in such polling place, any police constable or peace officer, for the purpose of maintaining order, or of preserving the public peace, or preventing any breach thereof, or of removing any person or persons who may, in the opinion of such Deputy Returning Officer, be obstructing the polling or wilfully violating any of the provisions of this Act. 38 V. c. 28, s. 17.

Counting the votes.

**147.** Immediately after the close of the poll in every polling place, the Deputy Returning Officer shall, in the presence of the Poll Clerk (if any) and of such of the candidates or of their agents as may then be present, open the ballot box, and proceed to count the votes as follows:—

Rejected ballots.

1. He shall examine the ballot papers, and any ballot paper which has not on its back the name or initials of the Deputy Returning Officer, or on which more votes are given than the elector is entitled to give, or on which anything, except the initials or name of the Deputy Returning Officer on the back, is written or marked, by which the voter can be identified, shall be void, and shall not be counted: and any ballot paper on which votes are given for a greater number of candidates for any office than the voter is entitled to vote for, shall be void as regards all the candidates for such office, but shall be good

as regards the votes for any other offices in respect to which the voter has not voted for more candidates than he is entitled to vote for. 38 V. c. 28, s. 18 (1); 40 V. c. 7, *Sched. A.* (169).

2. The Deputy Returning Officer shall take a note of any objection made by any candidate, his agent, or any elector authorized to be present, to any ballot paper found in the ballot box, and shall decide any question arising out of the objection. 39 V. c. 5, s. 11. Deputy re-  
turning officer  
to note objec-  
tions taken to  
ballot papers  
at the counting  
the same.

3. Each objection shall be numbered, and a corresponding number placed on the back of the ballot paper, and initialed by the Deputy Returning Officer. 39 V. c. 5, s. 11 (2). And number  
both

4. The Deputy Returning Officer shall endorse "*Rejected*" on any ballot paper which he rejects as invalid, and shall endorse "*Rejection objected to*," if any objection is made to his decision. 38 V. c. 28, s. 18 (2). Endorsing  
ballot paper.

5. The Deputy Returning Officer shall then count up the votes given for each candidate upon the ballot papers not rejected, and make up a written statement, in words as well as in figures, of the number of votes given for each candidate, and of the number of ballot papers rejected and not counted by him, which shall be made under the several heads— Statement.

(a) Name or number of Ward or polling subdivision and of the Municipality and the date of election;

(b) Number of votes for each candidate;

(c) Rejected ballot papers.

38 V. c. 28, s. 18 (3); 39 V. c. 5, s. 14.

6. Upon the completion of such written statement, it shall be forthwith signed by the Deputy Returning Officer, the Poll Clerk, if any, and such of the candidates or their agents as may be present, and desire to sign such statement. 38 V. c. 28, s. 18 (4). To be signed.

148. No more than two agents for any candidate shall be entitled to be present at the same time at the counting of the votes. 38 V. c. 28, s. 18 (5). Agents en-  
titled to be  
present.

149. Every Deputy Returning Officer, upon being requested so to do, shall deliver to the persons authorized to attend at his polling place, a certificate of the number of votes given at that polling place for each candidate, and of the number of rejected ballot papers. 39 V. c. 5, s. 15. Deputy re-  
turning officer  
to give certifi-  
cate of state of  
poll.

150. Every Deputy Returning Officer shall, at the close of the poll, certify under his signature on the voters' list in full words Deputy re-  
turning offi-  
cers' duties



after votes are counted. the total number of persons who have voted at the polling place at which he has been appointed to preside, and at the completion of the counting of votes after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets, sealed with his own seal, and the seals of such agents of the candidate as desire to fix their seals, and marked upon the outside with a short statement of the contents of such packet, the date of the day of the election the name of the Deputy Returning Officer, and of the Ward or polling subdivision and Municipality,

- (a) The statement of votes given for each candidate and of the rejected ballot papers ;
- (b) The used ballot papers which have not been objected to and have been counted ;
- (c) The ballot papers which have been objected to, but which have been counted by the Deputy Returning Officer ;
- (d) The rejected ballot papers ;
- (e) The spoiled ballot papers ;
- (f) The unused ballot papers ;
- (g) The voters' list, with the oath in the form of Schedule G. annexed thereto ; a statement of the number of voters whose votes are marked by the Deputy Returning Officer under the heads, "Physical incapacity," and "Unable to read," with the declarations of inability ; and the notes taken of objections made to ballot papers found in the ballot-box.

2. Before placing the voters' list in its proper packet, the Deputy Returning Officer shall make and subscribe before the Clerk of the Municipality, a Justice of the Peace or the Poll Clerk, his declaration under oath that the voters' list was used in the manner prescribed by law, and that the entries required by law to be made therein were correctly made ; which declaration shall be in the form of Schedule G to this Act, and shall thereafter be annexed to the voters' list.

Certain packets to be delivered to the clerk of municipality.

3. If the Clerk of the Municipality is not himself performing the duties of Deputy Returning Officer, the Deputy Returning Officer shall forthwith deliver such packets personally to the Clerk of the Municipality ; and if he is unable to do so, owing to illness or other cause, he shall deliver such packets to a person chosen by him for the purpose of delivering the same to the Clerk ; and shall mention on the outside of the cover of each of the packets the name of the person to whom the same had been so delivered, and shall take a proper receipt therefor ; he shall also forthwith return the ballot box to the Clerk of the Municipality.



4. The packets shall be accompanied by a statement made by the Deputy Returning Officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of (1) Counted; (2) Rejected; (3) Unused; (4) Spoiled; (5) Ballot Papers given to voters who afterwards returned the same, declining to vote; and (6) Ballot Papers taken from the polling place; which statement shall give the number of papers under each head, and is in this Act referred to as the "Ballot Paper Account."

Statement to be made by deputy returning officers on return of ballot papers, &c.

5. If the Deputy Returning Officer and one or more of the candidates or of the agents of the candidates present at the examination and counting of the ballot papers are unable to agree as to the written statement to be made by the Deputy Returning Officer, the packages of ballot papers shall be broken open by the Clerk of the Municipality, in the presence of the Deputy Returning Officer and such of the candidates or of their agents as may be present on the day succeeding the polling day, at an hour and place to be appointed, and of which they have been notified by the Deputy Returning Officer, unless the distance necessary to be travelled is such that the appointed place cannot be reached on the day following the poll, in which case a reasonable time shall be allowed, and no more, for the purpose of coming before the Clerk of the Municipality; and the Clerk of the Municipality, after examining the ballot papers, shall finally determine the matter in dispute, and sign the written statement hereinbefore mentioned; and the Clerk of the Municipality shall forthwith, in the presence of the Deputy Returning Officer and such of the candidates or of their agents as may then be present, securely seal up the ballot papers which have been examined by him into their several packages as before. 38 V. c. 28, ss. 19, 20; 39 V. c. 5, ss. 12, 13.

If dispute as to result arise how to be settled.

**151.** The Clerk of the Municipality, after he has received the ballot papers and statements before mentioned of the number of votes given in each polling place, shall, without opening any of the sealed packets of ballot papers, cast up the number of votes for each candidate from such statements; and shall at the Town Hall, or, if there is no Town Hall, at some other public place, at noon on the day following the return of such ballot papers and statements, publicly declare to be elected the candidate or candidates having the highest number of votes, and shall also put up in some conspicuous place a statement under his hand showing the number of votes for each candidate. 38 V. c. 28, s. 21.

Clerk to cast up votes and declare who is elected, etc.

**152.** In case it appears, upon the casting up of the votes as aforesaid, that two or more candidates have an equal number of votes, the Clerk of the Municipality or other person appointed by by-law to discharge his duties of Clerk in his absence or incapacity through illness, and whether otherwise qualified or not, shall, at the time he declares the result of the poll, give a

In certain cases clerk to have a casting vote.

vote for one or more of such candidates, so as to decide the election.

2. Except in such case, no Clerk of the Municipality shall vote at any municipal election held in his Municipality.

3. All Deputy Returning Officers and persons employed as Deputy Returning Officers and Poll Clerks, if otherwise qualified, shall be entitled to vote. 38 V. c. 28, s. 22.

Election not commenced, or interrupted by riot, etc., to be resumed.

**153.** In case, by reason of riot or other emergency, an election is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the Returning Officer, or Deputy Returning Officer, as the case may be, shall hold or resume the election on the following day at the hour of ten o'clock in the forenoon, and continue the same from day to day, if necessary, for four days, until the poll has been opened without interruption, and with free access to voters for twelve hours in all, or thereabouts, in order that all the electors so intending may have had a fair opportunity to vote. 38 V. c. 28, s. 23.

If election is prevented for four days, poll book is to be returned, and a new election ordered.

**154.** But in case the election has not, by the end of the fourth day from the day the same commenced or should have commenced, been kept open for the said twelve hours, the Returning Officer, or Deputy Returning Officer, as the case may be, shall not return any person as elected, but shall return his voters' list and ballot papers on the following day to the head of the Municipality, certifying the cause of there not having been an election; and a new election shall take place, and the head of the Municipality shall forthwith issue his warrant therefor. 38 V. c. 28, s. 24. *See also section 174.*

Declaration of election—duty of the Clerk.

**155.** When a poll has been duly held in each of such Wards or polling subdivisions, and the ballot papers and statements hereby directed to be returned to the Clerk have been so returned to him, the Clerk shall, without opening any of the sealed packets of ballot papers, cast up from said statements the number of votes given for each candidate for any office in respect whereof the election has not been previously declared, together with the votes appearing by the statements previously returned for other Wards to be given for the candidate, and shall at noon on the next day, at the Town Hall, or if there is no Town Hall, at some other public place, publicly declare to be elected the candidate or candidates having the largest number of votes polled. 38 V. c. 28, s. 26.

Declaration and assumption of office.

**156.** The person or persons so elected shall make the necessary declarations of office and qualification and assume office accordingly. 36 V. c. 48, s. 119.

## DIVISION VI.—MISCELLANEOUS PROVISIONS.

*Clerk to retain Ballot Papers.* Sec. 157.

*Inspection of Ballot Papers.* Sec. 158.

*Evidence.* Sec. 159.

*Offences.* Secs. 160, 161.

*Secrecy of Proceedings.* Secs. 162-164.

*Candidates may do Agents' duty.* Secs. 165, 166.

*Computation of time.* Sec. 167.

*Technical objections not to prevail.* Sec. 168.

*Expenses of Returning Officers, etc.* Sec. 169.

**157.** The Clerk of the Municipality shall retain for one month all ballot papers received by him or forwarded to him in pursuance of this Act by Deputy Returning Officers, and then, unless otherwise directed by an order of a Court or Judge of competent jurisdiction, shall cause them to be destroyed in the presence of two witnesses, whose declaration that they have witnessed the destruction of such papers shall be taken before the head of the Municipality, and filed amongst the records of the Municipality by the said Clerk. 38 V. c. 28, s. 27.

When ballot papers shall be destroyed.

**158.** No person shall be allowed to inspect any ballot papers in the custody of the Clerk of the Municipality except under the order of a Court or Judge of competent jurisdiction, to be granted by the Court or Judge on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers shall be obeyed by the Clerk of the Municipality.

When ballot papers may be inspected.

2. Such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the Court or Judge making the order thinks expedient. 33 V. c. 28, s. 28.

**159.** Where a rule or order is made for the production by the Clerk of the Municipality, of any document in his possession relating to any specified election, the production of the document by the Clerk, in such manner as may be directed by the rule or order, shall be conclusive evidence that the document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by the Clerk, shall be evidence of such papers being what they are stated to be by the endorsement. 38 V. c. 28, s. 29.

Evidence as to documents, ballot papers, etc., in certain cases.

**160.** No person shall—

Offences.

(a) Without due authority supply any ballot paper to any person; or



(b) Fraudulently put into any ballot box any paper other than the ballot paper, which he is authorized by law to put in; or

(c) Fraudulently take out of the polling place any ballot paper; or

(d) Without due authority destroy, take, open, or otherwise interfere with any ballot box or packet of ballot papers then in use for the purposes of the election.

2. No person shall attempt to commit any offence specified in this section.

Penalty by imprisonment.

3. Any person guilty of any violation of this section shall be liable, if he is the Clerk of the Municipality, to imprisonment for any term not exceeding two years, with or without hard labour; and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour. 38 V. c. 28, s. 30; 39 V. c. 1, s. 4.

Money penalty for offences.

**161.** Every officer and clerk who is guilty of any wilful misfeasance, or any wilful act or omission in contravention of the one hundred and fifteenth to the one hundred and sixtieth sections, inclusive, of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum of four hundred dollars. 38 V. c. 28, s. 31.

Maintaining secrecy of proceedings.

**162.** Every officer, clerk and agent in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at the polling place.

2. No officer, clerk or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain at the polling place information as to the candidate or candidates for whom any voter at such polling place is about to vote or has voted.

3. No officer, clerk, agent or other person shall communicate at any time to any person any information obtained at a polling place as to the candidate or candidates for whom any voter at such polling place is about to vote or has voted.

4. Every officer, clerk and agent in attendance at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate or attempt to communicate any information obtained at such counting as to the candidate or candidates for whom any vote is given in any particular ballot paper.

5. No person shall, directly, or indirectly, induce any voter to display his ballot paper after he has marked the same,



so as to make known to any person the name of any candidate or candidates for or against whom he has marked his vote.

6. Every person who acts in contravention of this section shall be liable, on summary conviction before a Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace, to imprisonment for any term not exceeding six months, with or without hard labour. 38 V. c. 28, s. 32.

Penalty for  
contravening  
this section.

**163.** The Clerk of the Municipality, and every officer, clerk or agent, authorized to attend a polling place or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy in the presence, if he is the Clerk of the Municipality, of a Justice of the Peace, and if he is any other officer, or clerk, in the presence of a Justice of the Peace or of the Clerk of the Municipality; and if he is an agent of a candidate, in the presence of a Justice of the Peace or of the Clerk of the Municipality, or of the Deputy Returning Officer at whose polling place he is appointed agent; and such statutory declaration of secrecy shall be in the form mentioned in Schedule H to this Act, or to the like effect. 38 V. c. 28, s. 33. 40 V. c. 12, s. 19.

Statutory de-  
claration of  
secrecy.

**164.** No person who has voted at an election shall in any legal proceeding to question the election or return, be required to state for whom he has voted. 38 V. c. 28, s. 34.

No one com-  
pellable to dis-  
close his vote.

**165.** A candidate may himself undertake the duties which any agent of his, if appointed, might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may in pursuance of this Act be authorized to attend. 38 V. c. 28, s. 35.

Candidates  
may under-  
take duties of  
an agent.

**166.** When in the sections of this Act numbered from one hundred and fifteen to one hundred and sixty-five inclusive any expressions are used, requiring or authorizing any act or thing to be done, or inferring that any act or thing is to be done in the presence of the agents of the candidate, such expressions shall be deemed to refer to the presence of such agents of the candidates as are authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done; and the non-attendance of any agents or agent at such time and place shall not, if the act or thing is otherwise duly done, invalidate in anywise the act or thing done. 38 V. c. 28, s. 36.

Expressions in  
the Act refer-  
ring to agents.

Non-attend-  
ance of agents

**167.** In reckoning time for the purposes of the said sections, Sunday and any day set apart by any Act of lawful authority for a public holiday, fast or thanksgiving, shall be excluded; and where anything is required by this Act to be done on any day which falls on such days, such things may be done on the

Non-juridica  
days.

next juridical day; but nothing in this section contained shall extend or apply to the days fixed by this Act for the nomination or election of candidates for the offices of Mayor and Aldermen in cities, and Mayor, Reeve, Deputy-Reeves and Councilors in other Municipalities. 38 V. c. 28, s. 37; 40 V. c. 7, *Sched. A* (170).

No election to be invalid for want of compliance with rules if in compliance with principles of the Act.

**168.** No election shall be declared invalid by reason of a non-compliance with the rules contained in this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of the forms contained in the Schedules to this Act, or by reason of any irregularity, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such non-compliance or mistake or irregularity did not affect the result of the election. 38 V. c. 28, s. 38; 39 V. c. 5, s. 16.

Expenses incurred by officers to be refunded.

**169.** The reasonable expenses incurred by the Clerk of the Municipality and by the other officers and clerks for printing, providing ballot boxes, ballot papers, materials for marking ballot papers, polling compartments, transmission of the packets required to be transmitted by this Act, and reasonable fees and allowances for services rendered under this Act, shall be paid to the Clerk of the Municipality by the Treasurer of the Municipality, and shall be distributed by the Clerk of the Municipality to the several persons entitled thereto. 38 V. c. 28, s. 39.

#### DIVISION VII.—VACANCIES IN COUNCIL.

*By Insolvency, etc. Sec. 170.*

*By Quo Warranto proceedings. Sec. 171.*

*By Resignation. Secs. 172, 173.*

*How filled. Secs. 174-178.*

*Seat held for residue of term. Sec. 175.*

*Not to prevent organization of Council. Sec. 176.*

*In certain cases Council to fill. Sec. 178.*

Seats to become vacant by crime, insolvency, absence, etc.

**170.** If, after the election of any person as member of a Council, he is convicted of felony or infamous crime, or becomes insolvent within the meaning of the Insolvent Acts, or applies for relief as an indigent debtor, or remains in close custody, or assigns his property for the use of his creditors, or absents himself from the meetings of the Council for three months without being authorized so to do by a resolution of the Council entered in its minutes, his seat in the Council shall thereby become vacant, and the Council shall declare the seat vacant and order a new election. 36 V. c. 48, s. 123.

**171.** In the event of any member of any Municipal Council forfeiting his seat at the Council or his right thereto, or of his becoming disqualified to hold his seat, or of his seat becoming vacant by disqualification or otherwise, he shall forthwith vacate his seat, and in the event of his omitting to do so at any time after his election, proceedings by *quo warranto* to unseat any such member, as provided by sections one hundred and seventy-nine to two hundred, both inclusive, of this Act, may be had and taken, and such sections shall, for the purposes of such proceedings, apply to any such forfeiture, disqualification or vacancy. 37 V. c. 16, s. 5.

*Quo warranto* proceedings on omitting to vacate seat.

**172.** Any Mayor or other member of a Council may, with the consent of the majority of the members present, to be entered on the minutes of the Council, resign his seat in the Council. 36 V. c. 48, s. 124.

Any member may resign with consent of majority of council.

**173.** The Warden of a County may resign his office by verbal intimation to the Council while in session, or by letter to the County Clerk if not in session, in which cases, and in case of vacancy by death or otherwise, the Clerk shall notify all the members of the Council, and shall, if required by a majority of the members of the County Council, call a special meeting to fill such vacancy. 36 V. c. 48, s. 130.

Resignation of warden provided for.

Vacancies, how filled.

**174.** In case no return is made for one or more Wards or polling subdivisions, in consequence of non-election, owing to interruption by riot or other cause, or in case a person elected to a Council neglects or refuses to accept office, or to make the necessary declarations of office within the time required, or in case a vacancy occurs in the Council caused by resignation, death, judicial decision or otherwise, the head of the Council for the time being, or in case of his absence, or of his office being vacant, the Clerk, or in case of the like absence or vacancy in the office of the Clerk, one of the members of the Council, shall forthwith, by warrant under the signature of such head, Clerk or member, if procurable, require the Returning Officers and Deputy Returning Officers appointed to hold the last election for the Municipality, Ward and polling subdivision respectively, or any other persons duly appointed to those offices, to hold a new election to fill the place of the person neglecting or refusing as aforesaid, or to fill the vacancy. 36 V. c. 48, s. 125.

New elections provided for and mode of conducting same.

**175.** The person thereupon elected shall hold his seat for the residue of the term for which his predecessor was elected, or for which the office is to be filled. 36 V. c. 48, s. 126.

Term of office of person thereupon elected.

**176.** In case such non-election, neglect or refusal as aforesaid, occurs previous to the organization of the Council for the year, the warrant for the new election shall be issued by the head or a member of the Council for the previous year, or by

Warrant for new election.



But non-election not to prevent organization of council. the Clerk, in like manner as provided by the one hundred and seventy-fourth section; but such neglect or refusal shall not interfere with the immediate organization of the new Council, provided a majority are present of the full number of the Council. 36 V. c. 48, s. 127.

Time for holding, and notice of new election. **177.** The Returning Officers and Deputy Returning Officers shall hold the new election at furthest within eight days after receiving the warrant, and the Clerk shall appoint a time and place for the nomination of candidates, and in case a poll is demanded, shall, at least four days before such polling, post up a public notice thereof under his hand in at least four of the most public places in the Municipality, Ward or polling subdivision. 36 V. c. 48, s. 128.

Mode of appointing requisite number of members of council if election neglected, &c. **178.** In case, at any annual or other election, the electors from any cause not provided for by the one hundred and fifty-third or one hundred and fifty-fourth sections, neglect or decline to elect the members of Council for a Municipality on the day appointed, or to elect the requisite number of members, the new members of the Council, if they equal or exceed the half of the Council when complete, or a majority of such new members, or if a half of such members are not elected, then the members for the preceding year, or a majority of them,—shall appoint as many qualified persons as will constitute or complete the number of members requisite; and the persons so appointed shall accept office and make the necessary declarations, under the same penalty, in case of refusal or neglect, as if elected. 36 V. c. 48, s. 129.

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#### DIVISION VIII—CONTROVERTED ELECTIONS.

*How validity or right of election determined.* Secs. 179—189.

*Writ for removal, &c.* Sec. 190.

*If entire election invalid.* Sec. 191.

*Disclaimer.* Secs. 192–197.

*Costs.* Sec. 197, 198.

*Decision of Judge final.* Sec. 199.

*Judges may settle forms and practice.* Sec. 200.

Trial of contested elections or right to elect. **179.** In case the right of any Municipality to a Reeve or Deputy Reeve or Reeves, or in case the validity of the election or appointment of Mayor, Warden or Reeve, or Deputy Reeve, Alderman, or Councillor is contested, the same may be tried in Term or Vacation by a Judge of either of the Superior Courts of Common Law, or the Senior or officiating Judge of the County Court of the County in which the election or appointment took place; and when the right of a Municipality to a Reeve



or Deputy Reeve or Reeves is the matter contested, any municipal elector in the County may be the relator, and when the contest is respecting the validity of any such election as aforesaid, any candidate at the election, or any elector who gave or tendered his vote thereat, or if respecting the validity of any such appointment, any member of the Council or any elector of the Ward, or, if there is no Ward, of the Municipality for which the appointment was made, may be the relator for the purpose. 36 V. c. 48, s. 131.

**180.** If within six weeks after the election, or one month after acceptance of office by the person elected, the relator shows by affidavit to any such Judge, reasonable grounds for supposing that the election was not legal, or was not conducted according to law, or that the person declared elected thereat was not duly elected, and if the relator enters into a recognizance before the Judge or before a Commissioner for taking affidavits, in the sum of two hundred dollars, with two sureties (to be allowed as sufficient by the Judge upon affidavit of justification) in the sum of one hundred dollars each, conditioned to prosecute the writ with effect, or to pay the party against whom the same is brought any costs which may be adjudged to him against the relator, the Judge shall direct a writ of summons in the nature of a *quo warranto* to be issued to try the matters contested. 36 V. c. 48, s. 132.

Time for limited, and security and proof required.

Writ in nature of *quo warranto*.

**181.** The Judge of the Superior Court before whom the writ of summons is returnable, may order the evidence to be used on the hearing of the summons to be taken *viva voce* before the Judge of the County Court, in the presence of counsel for, or after notice to, all parties interested, and such Judge shall return the evidence to the Clerk of the Crown of the Court at Toronto, and every party shall be entitled to a copy thereof. 36 V. c. 48, s. 133.

Evidence to be used on return of writ may be taken *viva voce* by leave of judge, etc.

**182.** In case the relator alleges that he himself or some other person has been duly elected, the writ shall be to try the validity, both of the election complained of, and the alleged election of the relator or other person. 36 V. c. 48, s. 134.

When the relator claims to be elected.

**183.** In case the grounds of objection apply equally to two or more persons elected, the relator may proceed by one writ against such persons. 36 V. c. 48, s. 135.

When several elections complained of.

**184.** Where more writs than one are brought to try the validity of an election, or the right to a Reeve or Deputy Reeve or Reeves as aforesaid, all such writs shall be made returnable before the Judge who is to try the first, and such Judge may give one judgment upon all, or a separate judgment upon each one or more of them, as he thinks fit. 36 V. c. 48, s. 136.

All to be tried by the same judge.

Writ, who to issue, and return day thereof.

**185.** The writ shall be issued by the Clerk of the Process of the said Superior Courts, or by the Deputy Clerk of the Crown in the County in which the election took place, and shall be returnable before the Judge in Chambers of the proper Court at Toronto, or before the Judge of the County Court at a place named in the writ, upon the eighth day after service computed, exclusively of the day of service, or upon any later day named in the writ. 36 V. c. 48, s. 137.

Service to be personal, unless excused by judge.

**186.** The writ shall be served personally, unless the party to be served keeps out of the way to avoid personal service, in which case the Judge, upon being satisfied thereof, by affidavit or otherwise, may make an order for such substitutional service as he thinks fit. 36 V. c. 48, s. 139.

Returning officer or deputy returning officer may be made a party.

**187.** The Judge before whom the writ is made returnable, or is returned, may, if he thinks proper, order the issue of a writ of summons at any stage of the proceedings to make the Returning Officer or any Deputy Returning Officer a party thereto. 36 V. c. 48, s. 138.

The judge may allow certain persons to intervene and defend.

**188.** The Judge before whom the writ is returned may allow any person entitled to be a relator to intervene and defend, and may grant a reasonable time for the purpose; and any intervening party shall be liable or entitled to costs like any other party to the proceedings. 36 V. c. 48, s. 140.

Judge shall try summarily.

**189.** The Judge shall, in a summary manner, upon statement and answer, without formal pleadings, hear and determine the validity of the election, or the right to a Reeve or Deputy Reeve or Reeves, and may, by order, cause the assessment rolls, collectors' rolls, list of electors, and any other records of the election to be brought before him, and may inquire into the facts on affidavit or affirmation, or by oral testimony, or by issues framed by him, and sent to be tried by jury by writ of trial directed to any Court named by the Judge, or by one or more of these means, as he deems expedient; subject, however, to the provisions of section two hundred and four. 36 V. c. 48, s. 141.

Evidence.

Trial.

Judge shall remove person not duly elected, admit person elected, or confirm election, etc.

**190.** In case the election complained of is adjudged invalid, the Judge shall forthwith, by writ, cause the person found not to have been duly elected to be removed, and in case the Judge determines that any other person was duly elected, the Judge shall forthwith order a writ to issue causing such other person to be admitted; and in case the Judge determines that no other person was duly elected instead of the person removed, the Judge shall by the writ cause a new election to be held. 36 V. c. 48, s. 142.

May cause new election.

If all the members ousted, etc., writ for new election to go to the sheriff.

**191.** In case the election of all the members of a Council is adjudged invalid, the writ for their removal, and for the election of new members in their place, or for the admission of others adjudged legally elected, and an election to fill up the

remaining seats in the Council, shall be directed to the Sheriff of the County in which the election took place ; and the Sheriff shall have all the powers for causing the election to be held which a Municipal Council has in order to supply vacancies therein. 36 V. c. 48, s. 143.

**192.** Any person whose election is complained of may, unless such election is complained of on the ground of corrupt practices on the part of such person, within one week after service on him of the writ, transmit post paid, through the post office, directed to "The Clerk of the Judge's Chambers, at Osgoode Hall, Toronto," or to "The Judge of the County Court of the County of \_\_\_\_\_" (as the case may be), or may cause to be delivered to such Clerk or Judge a disclaimer signed by him, to the effect following : Defendant may disclaim, except in certain cases.  
Mode of proceeding.

"I, A. B., upon whom a writ of summons, in the nature of a *quo warranto*, has been served for the purpose of contesting my right to the office of Township Councillor (or as the case may be) for the Township of \_\_\_\_\_, in the County of \_\_\_\_\_ (or as the case may be), do hereby disclaim the said office, and all defence of any right I may have to the same. Form.

"Dated \_\_\_\_\_ day of \_\_\_\_\_

(Signed)

"A. B."

36 V. c. 48, s. 144.

**193.** Such disclaimer, or the envelope containing the same, shall moreover be endorsed on the outside thereof with the word "*Disclaimer*," and be registered at the post office where mailed. 36 V. c. 48, s. 145 Posting and registry of disclaimer.

**194.** Where there has been a contested election, the person elected may at any time after the election, and before his election is complained of, deliver to the Clerk of the Municipality a disclaimer signed by him as follows :— Person elected may disclaim at any time before his election is complained of.

"I, A. B., do hereby disclaim all right to the office of Township Councillor (or as the case may be) for the Township of \_\_\_\_\_ (or as the case may be), and all defence of any right I may have to the same." Form.

36 V. c. 48, s. 146.

**195.** Such disclaimer shall relieve the party making it from all liability to costs, and where a disclaimer has been made in accordance with the preceding sections, it shall operate as a resignation, and the candidate having the next highest number of votes shall then become the Councillor, or other officer, as the case may be. 36 V. c. 48, s. 147. Disclaimer to operate as resignation. Who to be deemed elected.

**196.** Every person disclaiming shall deliver a duplicate of his disclaimer to the Clerk of the Council, and the Clerk shall forthwith communicate the same to the Council. 36 V. c. 48, s. 148. Duplicate disclaimer to be delivered to clerk.



Costs of person  
disclaiming.

**197.** No costs shall be awarded against any person duly disclaiming, unless the Judge is satisfied that such party consented to his nomination as a candidate, or accepted the office, in which case the costs shall be in the discretion of the Judge. 36 V. c. 48, s. 149.

Costs  
generally.

**198.** In all cases not otherwise provided for, costs shall be in the discretion of the Judge. 36 V. c. 48, s. 150.

Judge to  
return his  
judgment to  
the court.  
It shall be  
final.

**199.** The decision of the Judge shall be final, and he shall, immediately after his judgment, return the writ and judgment, with all things had before him touching the same, into the Court from which the writ issued, there to remain of record as a judgment of the said Court; and he shall, as occasion requires, enforce such judgment by a writ in the nature of a writ of peremptory *mandamus*, and by writs of execution for the costs awarded. 36 V. c. 48, s. 151.

Mode of  
enforcing  
obedience.

The judges to  
make rules,  
&c.

**200.** The Judges of the Superior Courts of Common Law, or a majority of them, may, by rules made in Term time, settle the forms of the writs of summons, *certiorari*, *mandamus* and execution under this Act, and may regulate the practice respecting the suing out, service and execution of such writs, and the punishment for disobeying the same, or any other writ or order of the Court or Judge, and respecting the practice generally, in hearing and determining the validity of such elections or appointments, and respecting the costs thereon; and may from time to time rescind, alter, or add to such rules; but all existing rules shall remain in force until rescinded or altered as aforesaid. 36 V. c. 48, s. 152.

#### DIVISION IX.—PREVENTION OF CORRUPT PRACTICES.

*Bribery and undue influence defined.* Secs. 201, 202.

*Certain payments lawful.* Sec. 203.

*Evidence to be viva voce.* Sec. 204.

*Effect of conviction of candidate for bribery.* Sec. 205.

*Additional penalty.* Sec. 206.

*How penalties recoverable.* Sec. 207.

*Report and record of convictions.* Secs. 208, 209.

*Witnesses, how procured—Self-crimination not to excuse from giving evidence.* Secs. 210, 211.

*Proceedings, within what time to be taken.* Sec. 212.

*Case in which penalties not recoverable.* Sec. 213.

*Publication of the law against corrupt practices.* Sec. 214.

Certain  
persons to be  
deemed guilty  
of bribery.

**201.** The following persons shall be deemed guilty of bribery, and shall be punished accordingly:—



1. Every person who, directly or indirectly, by himself, or by any other person in his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or gives or procures, or agrees to give or procure, or offers or promises, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting at a municipal election, or upon a by-law for raising any money or creating a debt upon a Municipality or part of a Municipality for any purpose whatever, or who corruptly does any such act as aforesaid, on account of such voter having voted or refrained from voting at any such election, or upon any such by-law; Giving money to voters, &c.  
Procuring office, &c., for voters.
2. Every person who, directly or indirectly, by himself or by any other person in his behalf, makes any gift, loan, offer, promise or agreement as aforesaid, to or for any person, in order to induce such person to procure, or endeavour to procure, the return of any person to serve in any Municipal Council, or to procure the passing of any such by-law as aforesaid, or the vote of any voter at any municipal election, or for any such by-law; Or for persons influencing voters.
3. Every person who, by reason of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person in any municipal election, or to procure the passing of any such by-law as aforesaid, or the vote of any voter at any municipal election, or for any such by-law; Corruptly influencing voters.
4. Every person who advances or pays, or causes to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any municipal election, or at any voting upon a by-law as aforesaid, or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election, or at the voting upon any such by-law; Advancing, &c., money for bribery, &c.
5. Every voter who, before or during any municipal election, or the voting on any such by-law, directly or indirectly by himself or any other person in his behalf, receives, agrees or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or refraining or agreeing to refrain from voting at any such election, or upon any such by-law; Voter receiving money, &c., for vote, or agreeing for money to vote, &c.
6. Every person who, after any such election, or the voting upon any such by-law, directly or indirectly, by himself or any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person Receiving money, &c., after the election for voting, or inducing, &c., to vote.

to vote or refrain from voting at any such election, or upon any such by-law ;

Hiring teams,  
&c.

7. Every person who hires any horses, teams, carriages or other vehicles for the purpose of conveying electors to and from the polls, and every person who receives pay for the use of any horse, teams, carriages, or other vehicles, for the purpose of conveying electors to and from any polls as aforesaid. 36 V. c. 48, s. 153.

Persons using  
violence or in-  
timidation to  
be guilty of  
undue influ-  
ence.

**202.** Every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts, or threatens the infliction, by himself or by or through any other person, of any injury, damage or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who in any way prevents or otherwise interferes with the free exercise of the franchise of any voter, shall be deemed to be guilty of undue influence, and be subject to the penalty hereinafter mentioned. 36 V. c. 48, s. 154.

Expenses of  
candidates.

**203.** The actual personal expenses of any candidate, his expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising, shall be held to be the expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. 36 V. c. 48, s. 155.

Evidence of  
corrupt prac-  
tices on  
application in  
nature of  
*quo warranto*.

**204.** Where, in an application in the nature of a *quo warranto*, any question is raised as to whether the candidate or any voter has been guilty of any violation of section two hundred and one or two hundred and two of this Act, affidavit evidence shall not be used to prove the offence, but it shall be proved by *viva voce* evidence taken before the Judge of any County Court, upon a reference to him by the Judge of the Superior Court for that purpose, or upon an appointment granted by him in cases pending in such County Court. 36 V. c. 48, s. 156.

Penalty on  
candidates  
guilty of  
bribery, etc.

**205.** Any candidate elected at any municipal election, who is found guilty by the Judge, upon any trial upon a writ of *quo warranto*, of any act of bribery, or of using undue influence as aforesaid, shall forfeit his seat, and shall be ineligible as a candidate at any municipal election for two years thereafter. 36 V. c. 48, s. 157.

Additional  
penalties.

**206.** Any person who is adjudged guilty of any of the offences within the meaning of sections two hundred and one or two hundred and two of this Act, shall incur a penalty of twenty dollars, and shall be disqualified from voting at any

municipal election or upon a by-law for the next succeeding two years. 36 V. c. 48, s. 159.

**207.** The penalties imposed by section two hundred and six of this Act shall be recoverable, with full costs of suit, by any person who will sue for the same by action of debt in the Division Court having jurisdiction where the offence was committed; and any person against whom judgment is rendered, shall be ineligible, either as a candidate or municipal voter, until the amount which he has been condemned to pay is fully paid and satisfied. 36 V. c. 48, s. 160.

Recovery of penalties.

**208.** It shall be the duty of the Judge who finds any candidate guilty of a contravention of section two hundred and one or two hundred and two of this Act, or who condemns any person to pay any sum in the Division Court for any offence within the meaning of this Act, to report the same forthwith to the Clerk of the Municipality wherein the offence has been committed. 36 V. c. 48, s. 161.

Judge to make return.

**209.** The Clerk of every Municipality shall duly enter in a book, to be kept for that purpose, the names of all persons within his Municipality who have been adjudged guilty of any offence within the meaning of section two hundred and one or two hundred and two of this Act, and of which he has been notified by the Judge who tried the case. 36 V. c. 48, s. 162.

Clerk to keep book showing names of persons guilty of offences, &c.

**210.** Any witness shall be bound to attend before the Judge of the County Court upon being served with the order of such County Court Judge directing his attendance and upon payment of the necessary fees for such attendance, in the same manner as if he had been directed by a writ of *subpoena* so to attend, and he may be punished for contempt, and shall be liable to all the penalties for such non-attendance in the same manner as if he had been served with such subpoena. 36 V. c. 48, s. 163.

Attendance of witnesses.

**211.** No person shall be excused from answering any question put to him in any action, suit or other proceeding in any Court or before any Judge, touching or concerning any election, or by-law, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will subject him to any penalty under this Act, shall be used in any proceeding under this Act, against such person, if the Judge gives to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answer, to the satisfaction of the Judge. 36 V. c. 48, s. 164.

Witnesses not excused from answering on grounds of self crimination or privilege

Proviso.



Limitation of actions.

**212.** All proceedings other than an application in the nature of *quo warranto* against any person for any violation of section two hundred and one or two hundred and two of this Act, shall be commenced within four weeks after the municipal election at which the offence is said to have been committed, or within four weeks after the day of voting upon any by-law as aforesaid. 36 V. c. 48, s. 165.

No statutory penalty for corrupt practices at elections, where the party charged has first prosecuted a party jointly liable.

**213.** No pecuniary penalty or forfeiture imposed by this Act or any other Act of the Legislature of Ontario, shall be recoverable for any act of bribery or corrupt practice at an election, in case it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the said act; but this provision shall not apply in case the Judge before whom the person claiming the benefit thereof is charged, certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence charged, and that such person was in fact the principal offender. 37 V. c. 7, s. 95.

Proviso.

Copies of ss. 201-214 to be mailed and posted up prior to election.

**214.** The Clerk of every Municipality shall, prior to any election, or voting on any by-law, furnish each Deputy Returning Officer with at least two copies of the sections of this Act numbered from two hundred and one to two hundred and fourteen inclusive, and shall also post at least six copies thereof in conspicuous places in each polling subdivision in the Municipality. 36 V. c. 48 s. 166.

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## PART IV.

### MEETINGS OF MUNICIPAL COUNCILS.

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DIV. I.—WHEN AND WHERE HELD.

DIV. II.—CONDUCT OF BUSINESS.

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DIV. I.—WHEN AND WHERE HELD.

*First and subsequent meetings.* Secs. 215-222.

*Payment of members for attendance.* Secs. 223, 224.



**215.** The members of every Municipal Council (except County Councils) shall hold their first meeting at eleven o'clock in the forenoon, on the third Monday of the same January in which they are elected, or on some day thereafter; and the members of every County Council shall hold their first meeting at two o'clock in the afternoon, or some hour thereafter, on the fourth Tuesday of the same month, or on some day thereafter. 36 V. c. 48, s. 167.

First meetings of councils.

**216.** No business shall be proceeded with at the first meeting of the Council, until the declarations of office and qualification have been administered to all the members who present themselves to take the same. 36 V. c. 48, s. 175.

No business before declarations of office, etc.

**217.** The members elect of every County Council, being at least a majority of the whole number of the Council when full, shall at their first meeting after the yearly elections, and after making the declarations of office and qualification when required to be taken, organize themselves as a Council by electing one of themselves to be Warden. 36 V. c. 48, s. 120.

Election by county council of a warden.

**218.** At every such election the Clerk of the Council shall preside, and if there is no Clerk, the members present shall select one of themselves to preside, and the person selected may vote as a member. 36 V. c. 48, s. 121.

Who to preside at election.

**219.** In case of an equality of votes on the election of the head of any County Council, or Provisional County Council, then of those present, the Reeve, or in his absence the Deputy Reeve of the Municipality which has the largest number of names on its last revised assessment roll, as ratepayers, shall have a second and casting vote. 36 V. c. 48, s. 122.

Who to have the casting vote in the event of equality of votes.

**220.** The members of every County Council shall hold their first meeting at the County Hall if there is one, or otherwise at the County Court House. 36 V. c. 48, s. 168.

Place of first meeting.

**221.** The subsequent meetings of the County Council, and all the meetings of every other Council shall be held at such place, either within or without the Municipality, as the Council from time to time, by resolution on adjourning to be entered on the minutes, or by by-law, appoints. 36 V. c. 48, s. 169.

Place of subsequent meeting of county council, etc.

**222.** The Council of any County or Township in which any City, Town, or incorporated Village lies, may hold its sittings, keep its public offices, and transact all the business of the Council and of its officers and servants within such City, Town or incorporated Village, and may purchase and hold such real property therein as may be convenient for such purposes. 36 V. c. 48, s. 170.

Place of meeting may be in cities, etc.

Remuneration  
to councillors  
and commit-  
tee-men  
limited.

**223.** The Council of every Township and County may pass by-laws for paying the members of the Council for their attendance in Council, or any member while attending on committee of the Council, at a rate not exceeding three dollars *per diem*, and five cents per mile necessarily travelled (to and from) for such attendance. 36 V. c. 48, s. 172; 40 V. c. 7, *Sched. A* (171).

Remuneration  
of mayor, etc.

**224.** The Head of the Council of any County, City, Town or incorporated Village may be paid such annual sum or other remuneration as the Council of the Municipality may determine. 36 V. c. 48, s. 173; 40 V. e. 7, *Sched. A* (172).

## DIVISION II.—CONDUCT OF BUSINESS.

*Meetings to be open to public.* Sec. 225.

*Quorum, how many.* Secs. 226, 227.

*Who to preside.* Secs. 228, 230–232.

*Special meetings.* Secs. 228, 229.

*Presiding officer may vote.* Sec. 233.

*Equality of votes negatives question.* Sec. 233.

*Power to adjourn.* Sec. 234.

Ordinary  
meetings to be  
open.

**225.** Every Council shall hold its ordinary meetings openly, and no person shall be excluded except for improper conduct but the head or other chairman of the Council may expel and exclude from any meeting, any person who has been guilty of improper conduct at such meeting. 36 V. e. 48, s. 174.

Quorum.

**226.** A majority of the whole number of members required by law to constitute the Council shall be necessary to form a quorum. 36 V. e. 48, s. 176.

In councils of  
five, three  
must concur.

**227.** When a Council consists of only five members, the concurrent votes of at least three shall be necessary to carry any resolution or other measure. 36 V. c. 48, s. 177.

The heads to  
preside in  
council.

Special meet-  
ings.

**228.** The head of every Council shall preside at the meetings of Council, and may at any time summon a special meeting thereof, and it shall be his duty to summon a special meeting whenever requested in writing by a majority of the members of the Council. 36 V. e. 48, s. 178.

Special meet-  
ing may be  
either open  
or closed.

**229.** In case there is no by-law of a Council fixing the place of meeting, any special meeting of the Council shall be held at the place where the then last meeting of the Council was held, and a special meeting may be open or closed as in the opinion of the Council, expressed by resolution in writing, the public interest requires. 36 V. c. 48, s. 171.

**230.** In case of the death or absence of the head of a Town Council, the Reeve, and in case of the absence or death of both of them, the Deputy Reeve, and in case of the death or absence of the head of a Village or Township Council, the Deputy Reeve shall preside at the meetings of the Council, and may at any time summon a special meeting thereof; but if there be more than one Deputy Reeve, the Council shall determine which of them shall preside at their meeting. 36 V. c. 48, s. 179.

When reeve or deputy reeve to preside.

**231.** In the absence of the head of the Council, and in the case of a Town, Village or Township, in the absence also of the Reeve, if there be one, and also of the Deputy Reeve or Deputy Reeves, if there be one or more, by leave of the Council, or from illness, the Council may, from among the members thereof, appoint a presiding officer, who, during such absence, shall have all the powers of the head of the Council. 36 V. c. 48, s. 180

Absence of head, etc., provided for.

**232.** If the person who ought to preside at any meeting does not attend within fifteen minutes after the hour appointed, the members present may appoint a chairman from amongst themselves, and such chairman shall have the same authority in presiding at the meeting as the absent person would have had if present. 36 V. c. 48, s. 181.

Casual absence provided for.

**233.** The head of the Council, or the presiding officer or chairman of any meeting of any Council, may vote with the other members on all questions, and any question on which there is an equality of votes shall be deemed to be negatived. 36 V. c. 48, s. 182.

Head to vote. Question negatived in case of equality of votes.

**234.** Every Council may adjourn its meetings from time to time. 36 V. c. 48, s. 183.

Adjournment.

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## PART V.

### OFFICERS OF MUNICIPAL CORPORATIONS.

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DIV. I.—THE HEAD.

DIV. II.—THE CLERK.

DIV. III.—THE TREASURER.

DIV. IV.—ASSESSORS AND COLLECTORS.

DIV. V.—AUDITORS AND AUDIT.

DIV. VI.—VALUATORS.

DIV. VII. — DUTIES OF OFFICERS RESPECTING OATHS AND DECLARATIONS.

DIV. VIII.—SALARIES, TENURE OF OFFICE AND SECURITY.

DIVISION I.—THE HEAD.

*Who to be. Sec. 235.*

*Duties. Sec. 236.*

Who to be  
head of  
council.

**235.** The head of every County and Provisional Corporation shall be the Warden thereof, and of every City and Town the Mayor thereof, and of every Township and incorporated Village the Reeve thereof. 36 V. c. 48, s. 184.

Duties of head  
of council.

**236.** The head of the Council shall be chief executive officer of the Corporation; and it shall be his duty to be vigilant and active at all times in causing the law for the government of the Municipality to be duly executed and put in force; to inspect the conduct of all subordinate officers in the government thereof, and, as far as may be in his power, to cause all negligence, carelessness and positive violation of duty, to be duly prosecuted and punished, and to communicate from time to time to the Council all such information, and recommend such measures within the powers of the Council as may tend to the improvement of the finances, health, security, cleanliness, comfort and ornament of the Municipality. 36 V. c. 48, s. 185.

DIVISION II.—THE CLERK.

*Appointment and Duties of. Secs. 237, 238.*

*Records and papers may be inspected. Sec. 239.*

*Return of statistics to Government. Secs. 240-244.*

*On default, moneys retained. Sec. 245.*

The Clerk, and  
his duties.

**237.** Every Council shall appoint a Clerk; and the Clerk shall truly record in a book, without note or comment, all resolutions, decisions and other proceedings of the Council, and, if required by any member present, shall record the name and vote of every member voting on any matter submitted, and shall keep the books, records and accounts of the Council, and shall preserve and file all accounts acted upon by the Council, and also the originals or certified copies of all by-laws, and of all minutes of the proceedings of the Council, all of which he shall so keep in his office, or in the place appointed by by-law of the Council. 36 V. c. 48, s. 186.

Provision for  
absence, &c.,  
of clerk.

**238.** The Council may by resolution provide that, in case the Clerk is absent, or incapable through illness of performing his duties of Clerk, some other person to be named in such



resolution, or to be appointed under the hand and seal of such Clerk, shall act in his stead, and the person so appointed shall, while he so acts, have all the powers of the Clerk. 36 V. c. 48, s. 187.

**239.** Any person may inspect any of the particulars aforesaid as well as the assessment rolls, voters' lists, poll books, and other documents in the possession of or under the control of the Clerk, at all seasonable times, and the Clerk shall, within a reasonable time, furnish copies thereof to any applicant at the rate of ten cents per hundred words, or at such lower rates as the Council appoints, and shall, on payment of the proper fee therefor, furnish within a reasonable time, to any elector of the Municipality, or to any other person interested in any by-law, order or resolution, or to his attorney, a copy of such by-law, order or resolution, certified under his hand and under the corporate seal. 36 V. c. 48, s. 188.

Minutes, &c.,  
to be open to  
inspection.

Copies to be  
furnished and  
charges there-  
for, &c.

**240.** The Clerk of every City, Town, incorporated Village and Township shall, on or before the first day of December in each year, under a penalty of twenty dollars, to be paid to the Treasurer of Ontario in case of default, transmit to the Treasurer of Ontario a true return of the number of resident ratepayers appearing on the revised assessment roll of his Municipality for the year, and shall accompany such return with an affidavit of the correctness of the same made before a Justice of the Peace verifying the same in the following form:—

Clerk to trans-  
mit a yearly  
return of rate  
payers to the  
Provincial  
Treasurer.

I, A. B., Clerk of the Municipality of the (City Town, Township or Village (as the case may be), of      make oath and say, that the (above, within written, or annexed as the case may be) return, contains a true statement of the number of resident ratepayers appearing on the assessment roll of the said City (Town, Township or Village) for the year one thousand eight hundred and

(Signed)      A. B.

Sworn before me, &c.

36 V. c. 48, s. 189. See also Rev. Stat. c. 28, s. 5.

**241.** The Clerk of every Township, Village and Town shall in each year, within one week after the first day in March, under a penalty of twenty dollars in case of default, make a return to the Clerk of the County in which the Municipality is situate, of the following particulars respecting his Municipality for the year then last past, namely:

To make a  
yearly return  
to the County  
Clerk.

1. Number of persons assessed.
2. Number of acres assessed.
3. Total actual value of real property.
4. Total of taxable incomes.
5. Total value of personal property.
6. Total amount of assessed value of real and personal property.
7. Total amount of taxes imposed by by-laws of the Municipality.
8. Total amount of taxes imposed by by-laws of the County Council.

What such  
return shall  
show.

Heads of columns to be varied  
according to the form of the  
assessment rolls required by  
law.

9. Total amount of taxes imposed by by-laws of any Provisional County Council.
10. Total amount of taxes as aforesaid.
11. Total amount of income collected or to be collected from assessed taxes for the use of the Municipality.
12. Total amount of income from Licenses.
13. Total amount of income from Public Works.
14. Total amount of income from shares in incorporated Companies.
15. Total amount from all other sources.
16. Total amount of income from all sources.
17. Total expenditure on account of roads and bridges.
18. Total expenditure on account of other public works and property.
19. Total expenditure on account of stock held in any incorporated Company.
20. Total expenditure on account of Schools and Education, exclusive of School Trustees' Rates.
21. Total expenditure on account of the support of the poor, or charitable purposes.
22. Total expenditure on account of debentures and interest thereon.
23. Total gross expenditure on account of Administration of Justice in all its branches.
24. Amount received from Government on account of Administration of Justice.
25. Total net expenditure on account of Administration of Justice.
26. Total expenditure on account of salaries, and the expenses of Municipal Government.
27. Total number of sheep worried by dogs, and the amount paid therefor by the Municipality.
28. Total expenditure on all other accounts.
29. Total expenditure of all kinds.
30. Total amount of liabilities secured by debentures.
31. Total amount of liabilities unsecured.
32. Total liabilities of all kinds.
33. Total value of real property belonging to Municipality.
34. Total value of stock in incorporated Companies owned by Municipality.
35. Total amount of debts due to Municipality.
36. Total amount of arrears of taxes.
37. Balance in hands of Treasurer.
38. All other property owned by Municipality.
39. Total assets.

36 V. c. 48, s. 190.

County Clerk  
to make a  
return to the  
Provincial  
Secretary,

**242.** The Clerk of every County shall, before the first day of April in each year, prepare and transmit to the Provincial Secretary a statement of the aforesaid particulars respecting all the Municipalities within his County, entering each Municipality in a separate line, and the particulars required opposite to it, each in a separate column, together with the sum

total of all the columns for the whole County, and shall also make at the same time a return of the same particulars respecting his County, as a separate Municipality, and also of the following particulars:—

1. Number of Public School Inspectors.

2. Amount paid to School Inspectors.

3. Total amount paid to Sheriffs.

4. Total amount paid to County Crown Attorney.

5. Total amount paid to Clerk of the Peace.

6. Total amount paid for constable and police service.
- 36 V. c. 48, s. 191; 40 V. c. 7, *Sched. A.* (173).

**243.** The Clerk of every City and Town separated from a County shall, before the first day of April in each year, make a return to the Provincial Secretary of the particulars in section two hundred and forty-one mentioned respecting his City or Town. 36 V. c. 48, s. 192.

And also  
Clerks of  
cities and  
towns.

**244.** The Provincial Secretary shall, as soon as may be after the commencement of every Session, lay before the Legislative Assembly a copy of all returns hereinbefore required to be made. 36 V. c. 48, s. 193.

Provincial  
Secretary to  
lay returns  
before the  
Legislative  
Assembly.

**245.** The Treasurer of the County shall retain in his hands any moneys payable to any Municipality, if it is certified to him by the Clerk of the County that the Clerk of such Municipality has not made the return hereinbefore required; and the Treasurer of Ontario shall retain in his hands any moneys payable to any Municipality, if it is certified to him by the Provincial Secretary that the Clerk of such Municipality has not made the returns hereinbefore required. 36 V. c. 48, s. 194.

Moneys to be  
retained if  
returns not  
made.

DIVISION III.—THE TREASURER.

*His appointment, duties and remuneration.* Secs. 246–248.  
*Successor may draw moneys.* Sec. 249.

**246.** Every Municipal Council shall appoint a Treasurer, who may be paid either by salary or by a percentage and every Treasurer, before entering upon the duties of his office, shall give such security as the Council directs for the faithful performance of his duties, and especially for duly accounting for and paying over all moneys which may come into his hands; and it shall be the duty of every Council in each and every year to inquire into the sufficiency of the security given by such Treasurer, and report thereon. 36 V. c. 48, s. 195.

Treasurer to  
be appointed.

To give secu-  
rity.

Annual  
inquiry as to  
sufficiency of.

**247.** Every Treasurer shall receive and safely keep all moneys belonging to the Corporation, and shall pay out the same to such persons and in such manner as the laws of the

To receive and  
take care of  
and disburse  
moneys, etc.



His liability  
limited.

Province and the lawful by-laws or resolutions of the Council of the Municipal Corporation, whose officer he is, direct; but no member of the Council shall receive any money from such Treasurer for any work performed or to be performed; and such Treasurer shall not be liable to any action at law for any moneys paid by him in accordance with any by-law or resolution passed by the Council of the Municipality of which he is the Treasurer, unless where another disposition is expressly made of such moneys by statute. 36 V. c. 48, s. 196.

Half-yearly  
statement of  
assets.

**248.** Every Treasurer shall also prepare and submit to the Council half-yearly a correct statement of the moneys at the credit of the Corporation whose officer he is; and in Cities, Towns, incorporated Villages and Townships which have passed by-laws requiring this to be done, the Treasurer shall, on or before the twentieth day of December in each year, prepare and transmit to the Clerk of the Municipality a list of all persons who have not paid their municipal taxes on or before the fourteenth day of said month of December. 36 V. c. 48, s. 197. *See* ss. 78, 461 (2).

Annual list of  
persons in de-  
fault for taxes.

Provision on  
dismissal from  
office.

**249.** In case any Treasurer is dismissed from office, or absconds, it shall be lawful for his successor to draw any moneys belonging to such Municipality. 36 V. c. 48, s. 198.

#### DIVISION IV.—ASSESSORS AND COLLECTORS.

(*See also Rev. Stat. c. 180, ss. 10, 11.*)

*Certain Councils to appoint. Secs. 250, 251.*

*Township Collectors to act for Provisional Corporations.  
Secs. 252, 253.*

Assessors and  
collectors, ap-  
pointment and  
qualification  
of.

**250.** The Council of every City, Town, Township, and incorporated Village shall, as soon as may be convenient after the annual election, appoint as many Assessors and Collectors for the Municipality as the Assessment Laws from time to time authorize or require, and shall fill up any vacancy that occurs in the said offices as soon as may be convenient after the same occurs; but the Council shall not appoint as Assessor or Collector a member of the Council.

2. The same person may, in a City, Town or Township, be appointed Assessor or Collector for more than one Ward or polling sub-division.

3. In Municipalities which have passed by-laws requiring taxes to be paid on or before the fourteenth day of December, it shall be the duty of the Collectors, on the fifteenth day of December in each year, upon oath, to return to the Treasurer



the names of all persons who have not paid their municipal taxes on or before the fourteenth day of the said month of December. 36 V. c. 48, s. 199.

**251.** In Cities, the Council, instead of appointing Assessors under the foregoing section, may appoint an Assessment Commissioner, who, in conjunction with the Mayor for the time being, shall, from time to time, appoint such Assessors and Valuers as may be necessary, and such Commissioner, Assessors and Valuers shall constitute a Board of Assessors, and shall possess all the powers and perform the duties of Assessors appointed under the last preceding section; and the Council shall also have power by by-law to determine the number of Collectors to be appointed, and prescribe their duties, and may by by-law require the payment of taxes to be made into the office of the Treasurer by a day to be named, and in default may in said by-law impose an additional percentage charge on every unpaid tax or assessment, which shall be added to such unpaid tax or assessment, and collected by the Collectors as if the same had originally been imposed and formed part of such unpaid tax or assessment; and any Commissioner, Assessor or Collector to be appointed by any City need not be appointed annually, but shall hold office at the pleasure of the Council; and all notices, in other Municipalities required to be given to the Clerk of the Municipality in matters relative to assessment, shall in such City be given to the Assessment Commissioner. 36 V. c. 48, s. 200.

In cities, assessment commissioner may be appointed instead of such assessors, &c.

On default of payment of taxes, additional percentage may be imposed.

Tenure of office of commissioner, assessors, &c.

**252.** The Collectors of the several Townships in a Junior County of a Union of Counties shall *ex officio* be Collectors in such Townships for the Provisional Council, and the Collectors shall pay over to the Provisional Treasurer the money they collect under any by-law of the Provisional Council. 36 V. c. 48, s. 201.

Collector of provisional council.

Payments.

**253.** The money so collected shall be deemed the money of the Union, so far as necessary to make the Collectors and their sureties responsible to the Union therefor; and in case the Corporation of the Union receives the same, such Corporation shall immediately pay the amount to the Provisional Treasurer, retaining the expenses of collection. 36 V. c. 48, s. 202.

Moneys, how to be disposed of.

#### DIVISION V.—AUDITORS AND AUDIT.

*Appointment and duties. Secs. 254, 255.*

*Abstract of receipts and expenditures. Sec. 256.*

*Publication of audit. Sec. 257.*

*Council to finally audit. Sec. 258.*

*County Council to regulate and audit County moneys. Sec. 259.*

*Audit in Cities and Towns, etc. Sec. 260.*

*Special provisions relating to Toronto. Secs. 261-263.*

Auditors.

**254.** Every Council shall, at the first meeting thereof in every year after being duly organized, appoint two Auditors, one of whom shall be such person as the head of the Council nominates ; but no one who, at such time, or during the preceding year, is or was a member, or is or was Clerk or Treasurer of the Council, or who has, or during such preceding year had, directly or indirectly, alone or in conjunction with any other person, a share or interest in any contract or employment with or on behalf of the Corporation, except as Auditor, shall be appointed an Auditor. 36 V. c. 48, s. 203.

Disqualifica-  
tion for office  
of.

Duties of.

**255.** The Auditors shall examine and report upon all accounts affecting the Corporation, or relating to any matter under its control or within its jurisdiction for the year ending on the thirty-first day of December preceding their appointment. 36 V. c. 48, s. 204.

To prepare ab-  
stract and de-  
tailed state-  
ment of re-  
ceipts and ex-  
penditure,  
&c.

**256.** The Auditors shall prepare an abstract of the receipts, expenditure, assets and liabilities of the Corporation, and also a detailed statement of the said particulars in such form as the Council directs, and report in duplicate on all the accounts audited by them, and make a special report of any expenditure made contrary to law, and shall file the same in the office of the Clerk of the Council within one month after their appointment, and thereafter any inhabitant or ratepayer of the Municipality may inspect one of such duplicate reports at all seasonable hours, and may, by himself or his agent, at his own expense, take a copy thereof or extracts therefrom. 36 V. c. 48, s. 205.

Clerks to pub-  
lish abstracts  
and state-  
ments.

**257.** The Clerk shall publish the Auditors' abstract and report (if any), and shall also publish the detailed statement in such form as the Council directs, and in case of a minor Municipality the Clerk shall transmit to the Clerk of the County Council a copy of such abstract and statement, and the same shall be kept by the Clerk of the County Council as a record of his office. 36 V. c. 48, s. 206 ; 40 V. c. 7, *Sched. A* (174.)

The Council to  
audit finally,  
&c.

**258.** The Council shall, upon the report of the Auditors, finally audit and allow the accounts of the Treasurer and Collectors, and all accounts chargeable against the Corporation ; and in case of charges not regulated by law, the Council shall allow what is reasonable. 36 V. c. 48, s. 207.

Audit of  
moneys to be  
paid by Trea-  
surer.

**259.** Unless otherwise provided, every County Council shall have the regulation and auditing of all moneys to be paid out of the funds in the hands of the County Treasurer. 36 V. c. 48, s. 208.

**260.** In Cities and Towns the Council may also appoint an Auditor, who shall, daily or otherwise as directed by the Council, examine and report and audit the accounts of the Corporation, in conformity with any regulation or by-law of the Council; and in other Municipalities the Auditors shall also, monthly or quarterly, as directed by by-law, examine into and audit the accounts of the Corporation. 36 V. c. 48, s. 209.

Audit of accounts in cities.  
In other Municipalities.

**261.** Notwithstanding anything in this Act, the Council of the Corporation of the City of Toronto shall, during the month of December in each year, appoint two Auditors. 35 V. c. 77, s. 1.

Appointment of auditors by the City of Toronto.

**262.** Notwithstanding as aforesaid, the Auditors for the said City shall every month, commencing at the end of the first month in the following year, and so on to the end of such year, examine and report upon all accounts affecting the Corporation, or relating to any matter under its control or within its jurisdiction. 35 V. c. 77, s. 2.

Monthly audit.

**263.** The said Auditors shall discharge the duties imposed upon Auditors by the two hundred and fifty-sixth section of this Act within one month after the thirty-first day of December in each year. 35 V. c. 77, s. 3.

Annual report.

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#### DIVISION VI.—VALUATORS.

##### *Appointment and Duties. Sec. 264.*

**264.** The Council of every County may appoint two or more Valuers for the purpose of valuing the real property within the County, whose duty it shall be to ascertain, in every fifth year at furthest, the value of the same in the manner directed by the County Council; but such Valuers shall not exceed the powers possessed by Assessors; and the valuation so made shall be made the basis of equalization of the real property by the County Council for a period not exceeding five years; and the equalization of personal property shall be as heretofore. 36 V. c. 48, s. 210.

County Council may appoint valuers, their duties, &c.  
Equalization of real property.

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#### DIVISION VII.—DUTIES OF OFFICERS RESPECTING OATHS AND DECLARATIONS.

*Declarations of office and qualification. Secs. 265–267.*

*Before whom made. Sec. 268.*

*Persons to administer oaths and declarations. Sec. 269.*

*Record and deposit of. Sec. 270.*

*Oaths respecting matters before Council. Sec. 271.*

*Penalty for refusing office, or not making or refusing to administer declarations. Sec. 272.*



Declaration of  
office by cer-  
tain officers.

**265.** Every person elected or appointed under this Act to any office requiring a qualification of property in the incumbent shall, before he takes the declaration of office, or enters on his duties, make and subscribe a solemn declaration to the effect following:

Declaration of  
qualification.

I, *A. B.*, do solemnly declare that I am a natural-born (or naturalized, subject of Her Majesty; and have and had to my own use and benefit, in my own right (or have and had in right of my wife, *as the case may be*), as proprietor (or tenant, *as the case may be*), at the time of my election (or appointment, *as the case may require*), to the office of

Form of.

hereinafter referred to, such an estate as does qualify me to act in the office of (*naming the office*) for (*naming the place for which such person has been elected or appointed*), and that such estate is (*the nature of the estate to be specified, as an equitable estate of leasehold or otherwise, as the case may require, and if land, the same to be designated by its local description, rents or otherwise*), and that such estate at the time of my election (or appointment, *as the case may require*) was of the value of at least (*specifying the value*) over and above all charges, liens and incumbrances affecting the same.

36 V. c. 48, s. 211.

Declaration of  
office by cer-  
tain officers.

**266.** Every Returning Officer, Deputy Returning Officer and Poll Clerk, every member of a Municipal Council, every Mayor, and every Clerk, Assessor, Collector, Constable and other officer appointed by a Council, shall also, before entering on the duties of his office, make and subscribe a solemn declaration to the effect following:

Form of decla-  
ration of office.

I, *A. B.*, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*inserting the name of the office*), to which I have been elected (or appointed) in this Township (or *as the case may be*), and that I have not received, and will not receive, any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office, and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the said Corporation.

36 V. c. 48, s. 212.

Auditor's de-  
claration.

**267.** The solemn declaration to be made by every Auditor shall be as follows:

Form of.

I, *A. B.*, having been appointed to the office of Auditor for the Municipal Corporation of \_\_\_\_\_, do hereby promise and declare that I will faithfully perform the duties of such office according to the best of my judgment and ability; and I do solemnly declare, that I had not directly or indirectly any share or interest whatever in any contract or employment (except that of Auditor, *if re-appointed*) with, by or on behalf of such Municipal Corporation, during the year preceding my appointment, and that I have not any such contract or employment, except that of Auditor for the present year.

36 V. c. 48, s. 213.

Before whom  
declaration  
to be made.

**268.** The head and other members of the Council, and the subordinate officers of every Municipality, shall make the declaration of office and qualification before some Court Judge, Police Magistrate, or other Justice of the Peace having juris-



diction in the Municipality for which such head, members or officers have been elected or appointed, or before the Clerk of the Municipality; and the Court, Judge, or other persons before whom such declarations are made, shall give the necessary certificate of the same having been duly made and subscribed. Certificate of declaration. 36 V. c. 48, s. 214.

**269.** The head of any Council, any Alderman, Reeve or Deputy Reeve, any Justice of the Peace and Clerk of a Municipality may, within the Municipality, administer any oath, affirmation or declaration under this Act, relating to the business of the place in which he holds office, except where otherwise specially provided, and except where he is the party required to make the oath, affirmation or declaration. Certain officers may administer certain oaths, &c. within municipality. 36 V. c. 48, s. 215.

**270.** The deponent, affirmant, or declarant shall subscribe every such oath, affirmation or declaration, and the person administering it shall duly certify and preserve the same, and within eight days deposit the same in the office of the Clerk of the Municipality to the affairs of which it relates. Oath or declaration to be subscribed and kept. 36 V. c. 48, s. 216.

**271.** The head of every Council, or in his absence the chairman thereof, may administer an oath or affirmation to any person concerning any account or other matter submitted to the Council. Heads of council may administer certain oaths, &c. 36 V. c. 48, s. 217.

**272.** Every qualified person duly elected or appointed to be a Mayor, Alderman, Reeve or Deputy Reeve, Councillor, Police Trustee, Assessor or Collector of or in any Municipality, who refuses such office, or does not make the declarations of office and qualification within twenty days after knowing of his election or appointment, and every person authorized to administer any such declaration, who upon reasonable demand refuses to administer the same, shall, on summary conviction thereof before two or more Justices of the Peace, forfeit not more than eighty dollars, nor less than eight dollars, at the discretion of such Justices, to the use of the Municipality, together with the cost of prosecution. Penalty for refusing to accept office or administer declaration, &c. 36 V. c. 48, s. 218. How enforced.

#### DIVISION VIII.—SALARIES, TENURE OF OFFICE AND SECURITY.

*If not otherwise settled, Council to fix salaries. Sec. 273.*

*Tenure of Office. Sec. 274.*

*Gratuities to retiring Officers. Sec. 275.*

*Security to be given by. Sec. 276.*

*Offences. 29-30 V. c. 51, s. 187, 188.*

**273.** In case the remuneration of any of the officers of the Municipality has not been settled by Act of the Legislature, Salaries of officers.

the Council shall settle the same, and the Council shall provide for the payment of all municipal officers, whether the remuneration is settled by statute or by by-law of the Council.

Mode of  
appointment.

2. No Municipal Council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof, by tender or to applicants at the lowest remuneration. 36 V. c. 48, s. 219.

Tenure of  
office.

Duties.

274. All officers appointed by a Council shall hold office until removed by the Council, and shall, in addition to the duties assigned to them in this Act, perform all other duties required of them by any other statute, or by the by-laws of the Council. 36 V. c. 48, s. 220.

A gratuity  
may be given  
in certain  
cases.

275. Any Municipal Council, other than a Provisional Council, may grant to any officer who has been in the service of the Municipality for at least twenty years, and who has, while in such service, become incapable through old age of efficiently discharging the duties of his office, a sum not exceeding his aggregate salary or other remuneration for the last three years of his service, as a gratuity upon his removal or resignation. 36 V. c. 48, s. 221.

Corporations,  
&c., may ac-  
cept security  
of certain  
Companies for  
their officers.

Provisions  
respecting  
such security  
to apply.

Existing bonds  
may be can-  
celled.

276. The bonds or policies of guarantee of any incorporated or Joint Stock Company, empowered to grant guarantees, bonds or policies for the integrity and faithful accounting of public officers and other like purposes, may be accepted instead of, or in addition to, the bond or security of any officer or servant of any Municipal Corporation, in all cases where, by the provisions of this or any other Act or of any by-law of such Corporation, such officer or servant is required to give security, either by himself, or by himself and a surety or sureties, and where the parties directed or authorized to take such security see fit to accept the bond or policy of such Company as aforesaid, and approve the terms and conditions thereof; and all the provisions in any such Act relating to such security, to be given by any such officer or servant, or his sureties, shall apply to the bonds and policies of guarantee of such Company as aforesaid, which may be taken instead of, or in substitution of, any existing securities, if the parties directed or authorized as aforesaid see fit, whereupon such existing securities shall be delivered up to be cancelled. 27-8 V. c. 7, s. 2.

*[The following enactments, creating criminal liabilities, are made by sections 187 and 188 of 29-30 V. c. 51:—*

#### EMBEZZLEMENT OF BOOKS, MONEYS, &C.

Embezzlement  
by municipal  
officers.

187. All books, papers, accounts, documents, moneys, and valuable securities respectively, by any person or officer appointed or employed by or on behalf of any Council, kept or received by virtue of his office or

employment, shall be the property of the Corporation ; and in case any such person or officer refuses or fails to deliver up or pay over the same respectively to the Corporation, or to any person authorized by the Council to demand them, he shall be deemed guilty of a fraudulent embezzlement thereof, and may be prosecuted and punished in the same manner as a servant fraudulently embezzling any chattel, money or valuable security of his master ; but nothing herein shall affect any remedy of the Corporation or of any other person against the offender or his sureties, or any other party ; nor shall the conviction of such offender be receivable in evidence in any suit, at Law or in Equity, against him.

#### STEALING WRITS OF ELECTION, POLL-BOOKS, &C.

188. If any person steals, or unlawfully or maliciously, either by violence or stealth, takes from any Deputy Returning Officer or Poll Clerk, or from any other person having the lawful custody thereof, or from its lawful place of deposit for the time being, or unlawfully or maliciously destroys, injures or obliterates, or causes to be wilfully or maliciously destroyed, injured or obliterated, or makes or causes to be made any erasure, addition of names or interlineation of names, into or upon, or aids, counsels or assists in so stealing, taking, destroying, injuring or obliterating, or in making any erasure, addition of names or interlineation of names into or upon any writ of election or any return to a writ of election, or any indenture, poll-book, certificate or affidavit, or any other document or paper made, prepared or drawn out according to or for the purpose of meeting the requirements of the law in regard to municipal elections—every such offender shall be guilty of felony, and shall be liable to be imprisoned in the Provincial Penitentiary for any term not exceeding seven nor less than two years, or to be imprisoned in any other place of confinement for any term less than two years, or to suffer such other punishment by fine or imprisonment, or both, as the Court shall award ; and it shall not in any indictment for any such offence be necessary to allege that the article in respect of which the offence has been committed, was or is the property of any person, or that the same was or is of any value.

Stealing or destroying, &c., certain documents relating to municipal elections to be felony.

Punishment.

Value of document need not be stated.

### PART VI.

#### GENERAL PROVISIONS APPLICABLE TO ALL MUNICIPALITIES.

- TITLE I.—GENERAL JURISDICTION OF COUNCILS.  
 II.—RESPECTING BY-LAWS.  
 III.—RESPECTING FINANCE.  
 IV.—ARBITRATIONS.  
 V.—DEBENTURES AND OTHER INSTRUMENTS.  
 VI.—ADMINISTRATION OF JUSTICE AND JUDICIAL PROCEEDINGS.



## TITLE I.—GENERAL JURISDICTION OF COUNCILS.

## DIVISION I.—NATURE AND EXTENT.

*Confined to Municipality. Sec. 277.*

*General Regulations. Sec. 278.*

*May not grant monopolies. Sec. 279.*

*Except as to Ferries. Sec. 280.*

Jurisdiction of  
councils.

**277.** The jurisdiction of every Council shall be confined to the Municipality the Council represents, except where authority beyond the same is expressly given, and the powers of the Council shall be exercised by by-law when not otherwise authorized or provided for. 36 V. c. 48, s. 222.

General power  
to make regu-  
lations;

**278.** Every Council may make regulations not specifically provided for by this Act, and not contrary to law, for governing the proceedings of the Council, the conduct of its members, the appointing or calling of special meetings of the Council, and generally such other regulations as the good of the inhabitants

To repeal,  
alter, &c., by-  
laws.

of the Municipality requires, and may repeal, alter and amend its by-laws, save as by this Act restricted. 36 V. c. 48, s. 223.

Granting mo-  
nopolies pro-  
hibited.

**279.** No Council shall have the power to give any person an exclusive right of exercising within the Municipality any trade or calling, or to impose a special tax on any person exercising the same, or to require a license to be taken for exercising the same, unless authorized or required by statute so to do; but the Council may direct a fee, not exceeding one dollar, to be paid to the proper officer for a certificate of compliance with any regulations in regard to such trade or calling. 36 V. c. 48, s. 224.

Proviso.

Privileges of  
ferry.

**280.** A Council may grant exclusive privileges in any ferry which may be vested in the Corporation represented by such Council, other than a ferry between a Province of the Dominion of Canada and any British or foreign country, or between two Provinces of the Dominion. 36 V. c. 48, s. 225. *See B. N. A. Act, 1867, s. 91, (13); Rev. Stat. c. 112; and sec. 465 (4), post.*

Exception as  
to certain  
ferries.

## TITLE II.—RESPECTING BY-LAWS.

DIV. I.—AUTHENTICATION OF BY-LAWS.

DIV. II.—OBJECTIONS BY RATEPAYERS.

DIV. III.—VOTING ON BY ELECTORS.

DIV. IV.—CONFIRMATION OF BY-LAWS.

DIV. V.—QUASHING OF BY-LAWS.

DIV. VI.—BY-LAWS CREATING DEBTS.

DIV. VII.—BY-LAWS RESPECTING YEARLY RATES.

DIV. VIII.—ANTICIPATORY APPROPRIATIONS.

### DIVISION I.—AUTHENTICATION OF BY-LAWS.

*Original and Copies. Secs. 281, 282.*

*Proof of facts for Lieutenant-Governor. Sec. 283.*

**281.** Every by-law shall be under the seal of the Corporation, and shall be signed by the head of the Corporation; or by the person presiding at the meeting at which the by-law has been passed, and by the Clerk of the Corporation. 36 V. c. 48, s. 226. How by-laws to be authenticated.

**282.** A copy of any by-law, written or printed, without erasure or interlineation, and under the seal of the Corporation, and certified to be a true copy by the Clerk, and by any member of the Council, shall be deemed authentic, and be received in evidence in any Court of justice without proof of the seal or signatures, unless it is specially pleaded or alleged that the seal or one or both of the signatures have been forged. 36 V. c. 48, s. 227. Proof of.

**283.** The facts required by this Act to be recited in any by-law which requires the approval of the Lieutenant-Governor in Council, shall, before receiving such approval, be verified by solemn declaration, by the head of the Council, and by the Treasurer and Clerk thereof, and by such other person and on such other evidence as to the Lieutenant-Governor in Council satisfactorily proves the facts so recited; or in case of the death or absence of any such municipal officer, upon the declaration of any other member of the Council, whose declaration the Lieutenant-Governor in Council may accept. 36 V. c. 48, s. 228. By-laws requiring assent of the Lieut.-Governor.

### DIVISION II.—OBJECTIONS BY RATEPAYERS.

*When and how made. Sec. 284.*

*When successful. Sec. 285.*

**284.** In case any person rated on the assessment roll of any Municipality, or of any locality therein, objects to the passing of a by-law, the passing of which is to be preceded by the application of a certain number of the rateable inhabitants of such Municipality or place, he shall, on petitioning the Council, be at liberty to attend in person, or by counsel or attorney, before the Council at the time at which the by-law is intended to be considered, or before a committee of the Council appointed Opposition to by-laws. How to be made.

to hear evidence thereon, and may produce evidence that the necessary notice of the application for the by-law was not given, or that any of the signatures to the application are not genuine, or were obtained upon incorrect statements, and that the proposed by-law is contrary to the wishes of the persons whose signatures were so obtained, and that the remaining signatures do not amount to the number nor represent the amount of property necessary to the passing of the by-law. 36 V. c. 48, s. 229.

When by-laws shall not pass.

**285.** If the Council is satisfied upon the evidence that the application for the by-law did not contain the names of a sufficient number of persons whose names were obtained without fraud and in good faith, and who represent the requisite amount of property, and are desirous of having the by-law passed, or if the Council is satisfied that the notice required by law was not duly given, the Council shall not pass the by-law. 36 V. c. 48, s. 230.

### DIVISION III.—VOTING ON BY ELECTORS.

*Proceedings preliminary to the Poll.* Secs. 286-297.

*The Poll.* Secs. 298-304.

*Who to Vote.* Secs. 301, 302.

*Freeholders.* Sec. 301.

*Leaseholders.* Sec. 302.

*Oath of Freeholder.* Sec. 303.

*Oath of Leaseholder.* Sec. 304.

*Proceedings after close of Poll.* Sec. 305-310.

*Secrecy of Proceedings.* Secs. 311-312.

*Scrutiny.* Secs. 313-316.

*Council must pass when carried.* Sec. 317.

*Unless petitioned against.* Sec. 318.

If a by-law requires the assent of the electors, mode of obtaining same.

**286.** In case a by-law requires the assent of the electors of a Municipality before the final passing thereof, the following proceedings shall be taken for ascertaining such assent, except in cases otherwise provided for:

Time and place of voting to be fixed by by-law.

1. The Council shall by the by-law fix the day and hour for taking the votes of the electors, and such places in the Municipality as the Council shall in their discretion deem best, and where the votes are to be taken at more than one place, shall name a Deputy Returning Officer to take the votes at every such place; and the day so fixed for taking the votes shall not be less than three, nor more than five weeks after the first publication of the proposed by-law. 36 V. c. 48, s. 231 (1); 40 V. c. 8, s. 51.

By-law requiring assent of electors to be published.

2. The Council shall, before the final passing of the proposed by-law, publish a copy thereof in some public newspaper published within the Municipality, or if there is no such news-



paper, in some public newspaper published nearest the Municipality, or in the County Town, the publication to be continued in at least one number of such paper each week for three successive weeks, and shall also put up a copy of the by-law at four or more of the most public places in the Municipality. 37 c. 16, s. 6.

3. Appended to each copy so published and posted shall be Notice. a notice signed by the Clerk of the Council, stating that such copy is a true copy of a proposed by-law which will be taken into consideration by the Council after one month from the first publication in the newspaper, stating the date of the first publication, and that at the hour, day and place or places therein fixed for taking the votes of the electors, the polls will be held. 36 V. c. 48, s. 231 (3).

**287.** Forthwith after the day has been fixed as aforesaid, Ballot papers to be printed. for taking the votes of electors, with respect to the by-law the Clerk of the Municipal Council which proposed the by-law shall cause to be printed, at the expense of the Municipality, such a number of ballot papers as will be sufficient for the purposes of the voting. 39 V. c. 35, s. 1.

**288.** The ballot papers shall be according to the form of Form of. Schedule J to this Act. 39 V. c. 35, s. 2.

**289.** The Council shall by the by-law fix a time when, and a Council to fix a day for appointment of persons to attend at polling places, and for summing up votes. place where the Clerk of the Council which proposed the by-law shall sum up the number of votes given for and against the by-law, and a time and place for the appointment of persons to attend at the various polling places, and at the final summing up of the votes by the Clerk respectively, on behalf of the persons interested in, and promoting or opposing the passage of the by-law respectively. 39 V. c. 35, s. 3.

**290.** At the time and place named the head of the Municipality shall appoint, in writing signed by him, two persons to attend at the final summing up of the votes, and one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the passing of the by-law, and a like number on behalf of the persons interested in and desirous of opposing the passing of the by-law. Selection of agents. 39 V. c. 35, s. 4.

**291.** Before any person is so appointed he shall make and Agent to make declaration. subscribe before the head of the Municipality a declaration in the form of Schedule K to this Act, that he is interested in and desirous of promoting or opposing (as the case may be) the passing of the by-law. 39 V. c. 35, s. 5.

**292.** Every person so appointed, before being admitted to the Admission of agents to polling place, c. polling place or the summing up of the votes, as the case may be, shall produce to the Deputy Returning Officer or Clerk of the

Municipality, as the case may be, his written appointment. 39 V. c. 35, s. 6.

Appointment  
in absence of  
agent.

**293.** In the absence of any person authorized as aforesaid to attend at any polling place, or at the final summing up of the votes, any elector in the same interest as the person so absent may, upon making and subscribing before the Deputy Returning Officer at the polling place or the Clerk of the Municipality a declaration in the form of Schedule K to this Act, be admitted to the polling place to act for the person so absent. 39 V. c. 35, s. 7.

Exclusion  
from polling  
place.

**294.** During the time appointed for polling no person shall be entitled or permitted to be present in any polling place other than the officers, clerks and persons or electors authorized to attend as aforesaid at such polling place. 39 V. c. 35, s. 8.

Deputy  
returning  
officers, poll  
clerks and  
agents may  
vote at polling  
place where  
they are em-  
ployed,

**295.** The Clerk of the Municipality, on the request of any elector entitled to vote at one of the polling places, who has been appointed Deputy Returning Officer or Poll Clerk, or who has been named as the person to attend at any polling place other than the one where he is entitled to vote, shall give to such elector a certificate that such Deputy Returning Officer, Poll Clerk or person is entitled to vote for or against such by-law at the polling place where such elector is stationed during the polling day, and such certificate shall also state the property or other qualification in respect to which he is entitled to vote.

on certificate  
from the clerk  
of the municipi-  
pality.

2. On the production of such certificate, such Deputy Returning Officer, Poll Clerk or person shall have the right to vote at the polling place where he is stationed during the polling day, instead of at the polling place of the Ward or polling sub-division where he would otherwise have been entitled to vote; and the Deputy Returning Officer shall attach the certificate to the voters' list; but no such certificate shall entitle any such elector to vote at such polling place unless he has been actually engaged as such Deputy Returning Officer, Poll Clerk or person during the day of polling.

Who to ad-  
minister oath  
in such case.

3. In case of a Deputy Returning Officer voting at the polling place at which he is appointed to act, the Poll Clerk, or in the absence of the Poll Clerk, any one authorized to be present at such polling place, may administer to such Deputy Returning Officer the oath required to be taken of voters qualified to vote on the by-law. 39 V. c. 35, s. 9.

Who to con-  
duct the poll  
in municipali-  
ties divided  
into wards.

**296.** In the case of Municipalities which are divided into Wards or polling sub-divisions, the Clerk of the Municipality shall, before the poll is opened, prepare and deliver to the Deputy Returning Officer for every Ward or polling sub-division a voters' list in the form of Schedule C to this Act, containing the names, arranged alphabetically, of all male persons appear-

ing by the then last revised assessment roll to be entitled, under the provisions of the three hundred and first and three hundred and second sections of this Act, to vote in that Ward or polling sub-division, and shall attest the said list by his solemn declaration in writing under his hand. 40 V. c. 12, s. 18 (1).

**297.** In the case of Municipalities which are not divided into Wards or polling sub-divisions, the Clerk shall provide himself with the necessary ballot papers, the materials for marking ballot papers, printed directions to voters, and a list of electors for the Municipality similar to the list mentioned in the preceding section; and the Clerk shall perform the like duties with respect to the whole Municipality as are imposed upon a Deputy Returning Officer in respect of a Ward or polling sub-division. 40 V. c. 12, s. 18 (2).

In municipal-  
ities not di-  
vided into  
wards.

### *The Poll*

**298.** At the day and hour fixed as aforesaid, a poll shall be held and the votes shall be taken by ballot. 39 V. c. 35, s. 10.

Voting to be  
by ballot.

**299.** The proceedings at such poll, and for and incidental to the same, and the purposes thereof, shall be the same, as nearly as may be, as at municipal elections, and all the provisions of sections one hundred and sixteen to one hundred and sixty-nine inclusive, of this Act, so far as the same are applicable, and except so far as is herein otherwise provided, shall apply to the taking of votes at such poll, and to all matters incidental thereto. 39 V. c. 35, s. 11.

Proceedings to  
be as at muni-  
cipal elections.

**300.** The printed directions to be delivered to the Deputy Returning Officers shall be in the form of Schedule L to this Act. 39 V. c. 35, s. 12.

Form of  
directions for  
guidance to  
voters.

**301.** Any person shall be entitled to vote on any by-law requiring the assent of the electors, who is a male ratepayer, and, at the time of tender of the vote, of the full age of twenty-one years, and a natural born or naturalized subject of Her Majesty, and who has neither directly nor indirectly received, nor is in expectation of receiving, any reward or gift for the vote which he tenders, and is at the time of such tender a freeholder, either at Law or in Equity, in his own right or in right of his wife, of real property within such Municipality of sufficient value to entitle him to vote at any municipal election, and is rated on the last revised assessment roll as such freeholder, and is named or purported to be named in the voters' list of electors.

Freeholders  
who may vote  
on by-law.

2. In case of a new Municipality in which there has not been any assessment roll, the qualification of being named on such list and of being rated on the roll shall be dispensed

In case of new  
municipality  
where there  
has been no as-  
sessment roll.



with, but in such case such person offering to vote shall not be entitled to vote unless he possesses the other qualifications above mentioned, and has, at the time of tender of his vote, sufficient property to have entitled him to vote if he had been rated for such property, and unless at such time he names such property to the Deputy Returning Officer; and the Deputy Returning Officer shall note such property in the voters' list opposite the voter's name, at the request of any one entitled to vote on such by-law. 36 V. c. 48, s. 232; 39 V. c. 35, s. 26.

Leaseholders  
who may vote  
on by-laws.

**302.** Any person shall be entitled to vote on any by-law requiring the assent of the electors, who is a male ratepayer, and at the time of tender of the vote is of the full age of twenty-one years, and a natural born or naturalized subject of Her Majesty, and who has neither directly nor indirectly received, nor is in expectation of receiving, any reward or gift for the vote which he tenders, and is resident within the Municipality for which the vote is taken for one month next before the vote, and who is or whose wife is a leaseholder of real property within such Municipality of sufficient value to entitle him to vote at a municipal election, and who is rated on the last revised assessment roll therefor, and which lease extends for the period of time within which the debt to be contracted or the money to be raised by such by-law is made payable; in which lease the lessee has covenanted to pay all municipal taxes in respect of the property leased, and which person is named, or purported to be named, in the voters' list.

In case of new  
municipality  
where there  
has been no  
assessment  
roll.

2. In case of a new Municipality in which there has not been any assessment roll, the qualification of being named on such list and of being rated on the roll, and of residence for one month, shall be dispensed with, but in such case the person offering to vote shall not be entitled to vote unless possessing the other qualifications above mentioned, and unless he is at the time of tender of his vote a resident of the Municipality, and then has sufficient property to have entitled him to vote if he had been rated for such property, and unless at such time he names such property to the Deputy Returning Officer; and the Deputy Returning Officer shall note such property in the voters' list, opposite the voter's name, at the request of any one entitled to vote on such by-law. 36 V. c. 48, s. 233; 39 V. c. 35, s. 26.

Oath of free-  
holder voting  
on by-law.

**303.** Any ratepayer offering to vote in respect of a freehold on any such by-law, may be required by the Deputy Returning Officer or any ratepayer entitled to vote on any such by-law, to make the following oath or affirmation, or any part thereof, or to the effect thereof, before his vote is recorded:—

You swear that you are of the full age of twenty-one years, and a natural born (or naturalized) subject of Her Majesty;

That you are a freeholder in your own right (or in the right of your

wife, *as the case may require*), within the Municipality for which this vote is taken ;

That you have not voted before on the by-law in this Township (or Ward, *as the case may be*) ;

That you are, according to law, entitled to vote on the said by-law ;

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender ;

That you are the person named, or purporting to be named, in the voters' list of electors ;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote on this by-law, or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

And that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or refrain from voting ;

*(In case of a new Municipality in which there has not been any assessment roll, then instead of referring to being named in the voters' list, the person offering to vote may be required to name in the oath the property in respect of which he claims to vote) ;*

And no enquiries shall be made of any voter except with respect to the facts specified in such oath or affirmation. 36 V. c. 48, s. 234 ; 40 V. c. 8, s. 50.

**304.** Any ratepayer offering to vote in respect of a leasehold on any such by-law, may be required by the Deputy Returning Officer, or any ratepayer entitled to vote on any such by-law, to make the following oath or affirmation, or any part thereof, or to the effect thereof, before his vote is recorded :—

Oath of leaseholder voting on by-law.

You swear that you are of the full age of twenty-one years, and a natural born or naturalized subject of Her Majesty ;

That you have been a resident within the Municipality for which this vote is taken for one month next before the vote ;

That you are (or your wife is), a leaseholder within this Municipality and the lease extends for the period of time within which the debt to be contracted or the money to be raised by the by-law now submitted to the ratepayers is made payable, and that you have (or the lessee in said lease has) covenanted in such lease to pay all municipal taxes ;

That you have not before voted on the by-law in this Township (or Ward, *as the case may be*) ;

That you are, according to law, entitled to vote on the said by-law ;

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender ;

That you are the person named, or purporting to be named, in the voters' list ;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote on this by-law, or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

And that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or refrain from voting ;

*(In case of a new Municipality in which there has not been any assessment roll, then instead of swearing to residence for one month next before the vote, and of referring to being named in the voters' list, the person offering to vote may be required to name in the oath the property in respect of which he claims to vote, and that he is a resident of such Municipality) ;*

And no enquiries shall be made of any voter, except with respect to the facts specified in such oath or affirmation. 36 V. c. 48, s. 235 ; 40 V. c. 8, s. 50.

Form of statement to be made by deputy returning officers of result of the polling.

**305.** The written statement to be made by each Deputy Returning Officer at the close of the polling shall be made under the following heads:

- (a) Name or number of Ward or polling subdivision, and of the Municipality, and the date of the polling;
- (b) Number of votes for and against the by-law;
- (c) Rejected ballot papers. 39 V. c. 35, s. 13.

Objections to ballot papers.

To be numbered.

**306.** The Deputy Returning Officer shall take a note of any objection made by any person authorized to be present, to any ballot paper found in the ballot box, and shall decide any question arising out of the objection. Each objection to a ballot paper shall be numbered, and a corresponding number placed on the back of the ballot paper, and initialed by the Deputy Returning Officer. 39 V. c. 35, s. 14.

Deputy returning officer's duties after votes are counted.

**307.** Every Deputy Returning Officer, at the completion of the counting of votes after the close of the poll, shall, in the presence of the persons authorized to attend, make up into separate packets, sealed with his own seal, and the seals of such persons authorized to attend as desire to affix their seals, and marked upon the outside with a short statement of the contents of such packet, the date of the day of the polling, the name of the Deputy Returning Officer, and of the Ward or polling subdivision and Municipality—

- (a) The statement of votes given for and against the by-law and of the rejected ballot papers;
- (b) The used ballot papers which have not been objected to and have been counted;
- (c) The ballot papers which have been objected to, but which have been counted by the Deputy Returning Officer;
- (d) The rejected ballot papers;
- (e) The spoiled ballot papers;
- (f) The unused ballot papers;
- (g) The voters' list, with the oath in the form of Schedule G annexed thereto; a statement of the number of voters whose votes are marked by the Deputy Returning Officer, under the heads "Physical incapacity" and "Unable to read," with the declarations of inability; and the notes taken of objections made to ballot papers found in the ballot box. 39 V. c. 35, s. 15.

Certificate and declaration of deputy returning officer and

**308.** Every Deputy Returning Officer shall, at the close of the poll, certify under his signature on the voters' list in full words the total number of persons who have voted at the polling place



at which he has been appointed to preside, and shall before placing the voters' list in its proper packet as aforesaid, make and subscribe before the Clerk of the Municipality, a Justice of the Peace or the Poll Clerk, his solemn declaration that the voters' list was used in the manner prescribed by law, and that the entries required by law to be made therein were correctly made; which declaration shall be in the form of Schedule G to this Act, and shall thereafter be annexed to the voters' list: he shall also forthwith return the ballot box to the Clerk of the Municipality. 39 V. c. 35, s. 16.

return of  
voters' list  
and of ballot  
box.

**309.** Every Deputy Returning Officer, upon being requested so to do, shall deliver to the persons authorized to attend at his polling place a certificate of the number of votes given at the polling place for and against the by-law, and of the number of rejected ballot papers. 39 V. c. 35, s. 17.

Deputy re-  
turning officer  
to certify as to  
number of  
votes and re-  
jected ballot  
papers.

**310.** The Clerk, after he has received the ballot papers and statements before mentioned of the number of votes given in each polling place, shall, at the time and place appointed by the by-law, in the presence of the persons authorized to attend or such of them as may be present, without opening any of the sealed packets of ballot papers, sum up from such statements the number of votes for and against the by-law, and shall then and there declare the result, and forthwith certify to the Council under his hand whether the majority of the electors voting upon the by-law have approved or disapproved of the by-law. 39 V. c. 35, c. 18.

Clerk to cast  
up votes and  
declare result.

### *Secrecy of Proceedings.*

**311.** Every officer, clerk and person in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at the polling place.

Maintaining  
secrecy of pro-  
ceedings at  
polling.

2. No officer, clerk or other person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain at the polling place information as to the manner in which any voter at such polling place is about to vote or has voted.

Voter not to  
be interfered  
with.

3. No officer, clerk, or other person shall communicate at any time to any person any information obtained at a polling place as to the manner in which any voter at such polling place is about to vote or has voted.

No informa-  
tion to be given  
as to how any  
one voted.

4. Every officer, clerk and person in attendance at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate or attempt to communicate any information obtained at such counting as to the manner in which any vote is given in any particular ballot paper.

Secrecy to be  
maintained at  
counting.

Voters not to be induced to disclose votes.

5. No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the manner in which he has marked his vote.

Penalty for contravening this section.

6. Every person who acts in contravention of this section shall be liable, on summary conviction before a Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace, to imprisonment for any term not exceeding six months, with or without hard labour. 39 V, c. 35, s. 19.

Statutory declaration of secrecy to be made by officers, etc., before a poll.

**312.** The Clerk of the Municipality, and every officer, clerk or person authorized to attend a polling place, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the Clerk of the Municipality, of a Justice of the Peace, and if he is any other officer, or a clerk, or an agent, in the presence of a Justice of the Peace or the Clerk of the Municipality or a Deputy Returning Officer; and such statutory declaration of secrecy shall be in the form given in Schedule M to this Act, or to the like effect. 39 V. c. 35, s. 20.

### *Scrutiny.*

Scrutiny may be had on application to County Judge

**313.** If within two weeks after the Clerk of the Council which proposed the by-law has declared the result of the voting, any elector applies upon petition to the County Judge, after giving such notice of the application and to such persons as the Judge directs, and shows by affidavit to the Judge reasonable grounds for entering into a scrutiny of the ballot papers, and the petitioner enters into a recognizance before the Judge in the sum of one hundred dollars, with two sureties (to be allowed as sufficient by the Judge upon affidavit of justification) in the sum of fifty dollars each conditioned to prosecute the petition with effect, and to pay the party against whom the same is brought any costs which may be adjudged to him against the petitioner, the Judge may appoint a day and place within the Municipality for entering into the scrutiny. 39 V. c. 35, c. 21.

Notice of time of scrutiny.

**314.** At least one week's notice of the day appointed for the scrutiny shall be given by the petitioner to such persons as the Judge directs, and to the Clerk of the Municipality. 39 V. c. 35, s. 22.

Proceedings.

**315.** At the day and hour appointed, the Clerk shall attend before the Judge with the ballot papers in his custody, and the Judge, upon inspecting the ballot papers and hearing such evidence as he may deem necessary, and on hearing the parties, or such of them as may attend, or their counsel, shall in a summary manner determine whether the majority of the votes given is for or against the by-law, and shall forthwith certify the result to the Council. 39 V. c. 35, s. 23.

**316.** The Judge shall on such scrutiny possess the like Powers of Judge. powers and authority as to all matters arising upon such scrutiny as are possessed by him upon a trial of the validity of the election of a member of a Municipal Council; and in all cases Costs. costs shall be in the discretion of the Judge, as in the case of applications to quash a by-law, or he may apportion the costs as to him seems just. 39 V. c. 35, s. 25.

**317.** Any by-law which is carried by a majority of the duly By-law carried by voters to be passed by Council. qualified electors voting thereon, shall within six weeks thereafter be passed by the Council which submitted the same. 36 V. c. 48, s. 236.

**318.** In case of a petition being presented, the by-law shall The passing of the by-law stayed on presenting of the petition. not be passed by the Council until after the petition has been disposed of; and the time which intervenes between the presenting of the petition and the final disposal thereof shall not be reckoned as part of the six weeks within which the by-law is to be passed. 39 V. c. 35, s. 24.

#### DIVISION IV.—CONFIRMATION OF BY-LAWS.

*By publication.* Sec. 319.

*Notice.* Sec. 320.

*Consequent validity.* Sec. 321.

**319.** Every promulgation of a by-law shall consist in the Promulgation of by-laws. publication, through the public press, of a true copy of the by-law, and of the signature attesting its authenticity, with a notice appended thereto of the time limited by law for applications to the Courts to quash the same or any part thereof; and the publication aforesaid shall be in a public newspaper published within the Municipality, or if there is no such newspaper, then in the public newspaper published nearest the Municipality, or in the County Town; and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper each week for three successive weeks. 37 V. c. 16, s. 7.

**320.** The notice to be appended to every copy of the by-law Notice to be given. for the purpose aforesaid, shall be to the effect following:

NOTICE.—The above is a true copy of a by-law passed by the Municipal Council of the Township of A, in the County of B, one of the United Form of such notice. Counties of B, C and D (or as the case may be), on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, and (where the approval of the Lieutenant-Governor in Council is by law required to give effect to such by-law) approved by His Honour the Lieutenant-Governor in Council, on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_; and all persons are hereby required to take notice, that any one desirous of applying to have such by-law or any part thereof quashed, must make his application for that purpose to one of Her Majesty's Superior Courts of Common Law at Toronto, before the end of the Term of the said Superior Courts next after the special promulgation



thereof by the publication of this notice in three consecutive numbers of the following newspapers, viz. (*here name the newspapers in which the publication is to be made*), or he will be too late to be heard in that behalf; and take notice that such Term commences on the \_\_\_\_\_ day of \_\_\_\_\_ next.

G. H.,  
Township Clerk.

36 V. c. 48, s. 238.

If not moved against within the time limited, to be valid.

**321.** In case no application to quash any by-law is made before the end of the Term next after the third publication of such by-law and notice as aforesaid, the by-law, or so much thereof as is not the subject of any such application, or not quashed upon such application, so far as the same ordains, prescribes or directs anything within the proper competence of the Council to ordain, prescribe or direct, shall, notwithstanding any want of substance or form, either in the by-law itself, or in the time or manner of passing the same, be a valid by-law. 36 V. c. 48, s. 239.

#### DIVISION V.—QUASHING BY-LAWS.

*How to proceed. Sec. 322*

*Time limited for application. Sees. 323, 324.*

*Motion against for corrupt practices. Sees. 325, 326.*

*No action till after quashing and notice. Sec. 327.*

*Liability of Municipality for acts under illegal by-law. Sec. 328.*

*Tender of amends. Sec. 329.*

Quashing by-laws.

**322.** In case a resident of a Municipality, or any other person interested in a by-law, order or resolution of the Council thereof, applies to either of the Superior Courts of Common Law, and produces to the Court a copy of the by-law, order or resolution, certified under the hand of the Clerk and under the corporate seal, and shows by affidavit that the same was received from the Clerk, and that the applicant is resident or interested as aforesaid, the Court, after at least four days' service on the Corporation of a rule to show cause in this behalf, may quash the by-law, order or resolution, in whole or in part, for illegality, and, according to the result of the application, award costs for or against the Corporation. 36 V. c. 48, s. 240.

Time within which application must be made.

**323.** No application to quash any such by-law, order or resolution, in whole or in part, shall be entertained by any Court unless such application is made to such Court within one year from the passing of such by-law, order or resolution, except in the case of a by-law requiring the assent of electors or ratepayers, when such by-law has not been submitted to, or has not received the assent of such electors or ratepayers, and in such case an application to quash such by-law may be made at any time. 36 V. c. 48, s. 241.

Exception.

**324.** In case a by-law by which a rate is imposed has been promulgated in the manner herein before specified, no application to quash the by-law shall be entertained after the next Term of the Superior Courts of Common Law after the promulgation. 36 V. c. 48, s. 242.

Time after which by-law cannot be quashed, if promulgated.

**325.** Any by-law the passage of which has been procured through or by means of any violation of the provisions of sections two hundred and first and two hundred and second of this Act, shall be liable to be quashed upon any application to be made in conformity with the provisions hereinbefore contained. 36 V. c. 48, s. 243.

Quashing by-laws obtained by bribery, etc.

**326.** Before determining any application for the quashing of a by-law upon the ground that any of the provisions of the said two hundred and first and two hundred and second sections of this Act have been contravened in procuring the passing of the same, and if it is made to appear to a Judge of one of the Superior Courts of Law that probable grounds exist for a motion to quash such by-law, the Judge may make an order for an inquiry to be held, upon such notice to the parties affected as the Judge may direct concerning the said grounds, before the Judge of the County Court of the County in which the Municipality which passed the by-law is situate, and require that upon such inquiry all witnesses, both against and in support of such by-law, be orally examined and cross-examined upon oath before the said County Court Judge.

Procedure in such case.  
Inquiry by County Judge

2. The said County Court Judge shall thereupon return the evidence so taken before him to the Clerk of the Crown and Pleas at Toronto; and after the return of said evidence, and upon reading the same, any Judge of the said Superior Courts may, upon notice to such of the parties concerned as he thinks proper, proceed to hear and determine the question; and if the grounds therefor appear to him to be satisfactorily established, he may make an order for quashing said by-law, and he may order the costs attending said proceedings to be paid by the parties or any of them who have supported said by-law; and if it appears that the application to quash said by-law ought to be dismissed, the said Judge may so order, and in his discretion award costs, to be paid by the persons applying to quash said by-law. 36 V. c. 48, s. 244.

Return of evidence.  
Judgment.  
Costs.

**327.** After an order has been made by a Judge directing an inquiry, and after a copy of such order has been left with the Clerk of the Corporation of which the by-law is in question, all further proceedings upon the by-law shall be stayed until after the disposal of the application in respect of which the inquiry has been directed; but if the matter is not prosecuted to the satisfaction of the Judge he may remove the stay of proceedings. 36 V. c. 48, s. 245.

Stay of proceedings on the by-law.

Municipality  
to be liable  
for acts done  
under illegal  
by-law.

Notice of  
action.

Tender of  
amends.

**328.** In case a by-law, order or resolution is illegal in whole or in part, and in case anything has been done under it which, by reason of such illegality, gives any person a right of action, no such action shall be brought until one month has elapsed after the by-law, order or resolution has been quashed or repealed, nor until one month's notice in writing of the intention to bring such action has been given to the Corporation, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. 36 V. c. 48, s. 246.

**329.** In case the Corporation tenders amends to the plaintiff or his attorney, if such tender is pleaded and (if traversed) proved, and if no more than the amount tendered is recovered, the plaintiff shall have no costs, but costs shall be taxed to the defendant, and set off against the verdict, and the balance due to either party shall be recovered as in ordinary cases. 36 V. c. 48, s. 247.

#### DIVISION VI.—BY-LAWS CREATING DEBTS.

*Requisite formalities. Sees. 330–332.*

*Assent of electors, when required. See. 333.*

*When special Council meeting sufficient. Sees. 334.*

*When repealable and when not. Sees. 335, 336.*

*Illegal repeal to be ignored. See. 337.*

*Purchase of Public Works. See. 338.*

*Rates to be imposed therefor. See. 339.*

By-laws for  
contracting  
debts.

Terms of.

When to take  
effect.

When debt to  
be redeemed.

If for gas or  
water works,  
etc.

**330.** Every Municipal Council may, under the formalities required by law, pass by-laws for contracting debts by borrowing money or otherwise, and for levying rates for payment of such debts on the rateable property of the Municipality, for any purpose within the jurisdiction of the Council, but no such by-law shall be valid which is not in accordance with the following restrictions and provisions, except in so far as is otherwise provided in the next two sections of this Act:

1. The by-law, if not for creating a debt for the purchase of public works, shall name a day in the financial year in which the same is passed, when the by-law is to take effect;

2. If not contracted for gas or water-works, or for the purchase of public works, according to the statutes relating thereto, the whole of the debt and the obligations to be issued therefor shall be made payable in twenty years at furthest from the day on which such by-law takes effect; and if the debt is contracted for gas or water-works, the same shall in like manner



be paid in thirty years at furthest from the day on which the by-law takes effect;

3. The by-law shall settle an equal special rate per annum, To provide a in addition to all other rates, to be levied in each year for pay- yearly rate. ing the debt and interest;

4. Such special rate shall be sufficient, according to the Amount amount of rateable property appearing by the last revised as- thereof. sessment roll, to discharge the debt and interest when respec- tively payable;

5. The amount of rateable property shall be ascertained To be irre- irrespective of any future increase of the rateable property of spective of the Municipality, and of any income in the nature of tolls, in- future increase terest or dividends, from the work, or from any stock, share or of rateable interest in the work, upon which the money to be so raised or property, etc. any part thereof is intended to be invested, and also irrespec- tive of any income from the temporary investment of the sink- ing fund or of any part thereof;

6. The by-law, unless it is for a work payable by local Recitals in; assessment, shall recite:

(a.) The amount of the debt which such new by-law is in- (1) Amount tended to create, and, in some brief and general terms, the and object of object for which it is to be created; debt;

(b.) The total amount required by this Act to be raised (2) Amount annually by special rate for paying the new debt and interest; to be raised annually;

(c.) The amount of the whole rateable property of the (3) The value Municipality according to the last revised, or revised and of the rateable equalized assessment roll; property;

(d.) The amount of the existing debt of the Municipality, (4) Amount of showing the interest and principal separately, and how much existing debt; (if any) principal or interest is in arrear; and

(e.) The annual special rate in the dollar for paying the (5) Special interest and creating an equal yearly sinking fund for paying rate for inte- the principal of the new debt, according to this Act, or—in rest and sink- case the debt is payable under the provisions of section three ing fund. hundred and thirty-two—for paying the instalments of princi- pal and interest as they respectively become payable. 36 V. c. 48, s. 248.

**331.** If the by-law is for a work payable by local assess- By-law for a ment, it shall recite: work payable by local assess-

(a.) The amount of the debt which such by-law is intended recite— to create, and, in some brief and general terms, the object for Amount and which it is to be created; object of debt

Amount to be raised annually; (b.) The total amount required by this Act to be raised annually by special rate for paying the debt and interest under the by-law;

Value of real property rateable; (c.) The value of the whole real property rateable under the by-law, as ascertained and finally determined as aforesaid:

Special rate for interest and sinking fund, etc. (d.) The annual special rate in the dollar or per foot frontage, or otherwise, as the case may be, for paying the interest, and creating a yearly sinking fund for paying the principal of the debt, or for discharging instalments of principal, according to the foregoing provisions of this Act, or—in case the debt is payable under the provisions of section three hundred and thirty-two—for paying the instalments of principal and interest as they respectively become payable;

That debt created on security of special rate. (e.) That the debt is created on the security of the special rate settled by the by-law, and on that security only. 36 V. c. 48, s. 249.

Municipal council may make principal repayable by equal annual instalments. **332.** In any case of passing a by-law for contracting a debt, by borrowing money for any purpose, the Municipal Council may in its discretion make the principal of such debt repayable by annual instalments during the currency of the period (not exceeding thirty years, if the debt is for gas or water works, and not exceeding twenty years if the debt is for any other purpose) within which the debt is to be discharged; such instalments to be of such amounts that the aggregate amount payable for principal and interest in any year shall be equal, as nearly as may be, to what is payable for principal and interest during each of the other years of such period; and may issue the debentures of the Municipal Corporation for the amounts, and payable at the times, corresponding with such instalments, together with interest, annually or semi-annually, as may be set forth and provided in such by-law.

What by-law shall set out. 2. Such by-law shall set forth the annual special rate to be raised in each year during the period of the currency of the debt which shall be sufficient according to the amount of rateable property, appearing by the last revised or revised and equalized assessment rolls before the passing of the by-law, to discharge the several instalments of principal and the interest accruing due on said debt, as the said instalments and interest become respectively payable, according to the terms of said by-law; and, in cases within this section, it shall not be necessary that any provision be made for the creation of a sinking fund. 36 V. c. 48, s. 250.

By-laws for raising money not for ordinary expenses must (with **333.** Every by-law (except for drainage, as provided for under the five hundred and twenty-ninth section of this Act, or for a work payable entirely by local assessment) for raising upon the credit of the Municipality any money not required for

its ordinary expenditure, and not payable within the same municipal year, shall, before the final passing thereof, receive the assent of the electors of the Municipality in the manner provided for in the two hundred and eighty-sixth and following sections of this Act; except that in Counties the County Council may raise by by-law or by-laws, without submitting the same for the assent of the electors of such County or Counties, for contracting debts or loans, any sum or sums not exceeding in any one year twenty thousand dollars over and above the sums required for its ordinary expenditure. 36 V. c. 48, s. 251.

certain exceptions) receive assent of electors.  
Exception as to county by-law for contracting extra debts not exceeding in any year \$20,000.

**334.** No such by-law of a County Council for contracting any such debt or loan for an amount not exceeding in any one year twenty thousand dollars over and above the sums required for its ordinary expenditure, shall be valid, unless the same is passed at a meeting of the Council specially called for the purpose of considering the same, and held not less than three months after a copy of such by-law, as the same is ultimately passed, together with a notice of the day appointed for such meeting, has been published in some newspaper issued weekly or oftener within the County (as constituted for judicial purposes), or if there is no such public newspaper, then in a public newspaper published nearest to the County, which said notice may be to the effect following:—

Certain by-laws of county council not to be valid, unless passed at meeting specially called and held three months after notice, &c.

The above is a true copy of a proposed by-law to be taken into consideration by the Municipality of the County (or United Counties) of \_\_\_\_\_, at \_\_\_\_\_, in the said County (or United Counties), on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at which time and place the members of the Council are hereby required to attend for the purpose aforesaid.

Form of notice.

G. H.,  
Clerk.

37 V. c. 16, s. 8. 40 V. c. 7, *Sched. A* (175.)

**335.** Where part only of a sum of money provided for by a by-law has been raised, the Council may repeal the by-law as to any part of the residue and as to a proportionate part of the special rate imposed therefor, provided the repealing by-law recites the facts on which it is founded, and is appointed to take effect on the thirty-first day of December in the year of its passing, and does not affect any rates due, or penalties incurred before that day, and provided the by-law is first approved by the Lieutenant-Governor in Council. 36 V. c. 48, s. 253.

When part only of money raised, by-law may be repealed as to residue.  
Proviso.

**336.** After a debt has been contracted, the Council shall not, until the debt and interest have been paid, repeal the by-law under which the debt was contracted, or any by-law for paying the debt or the interest thereon, or for providing therefor a rate or additional rate, or appropriating thereto the surplus income of any work or of any stock or interest therein, or money from any other source; and the Council shall not

Until debt paid, certain by-laws cannot be repealed,  
Nor altered.



Exceptions.

alter a by-law providing any such rate, so as to diminish the amount to be levied under the by-law, except in the cases herein authorized, and shall not apply to any other purpose any money of the corporation which, not having been previously otherwise appropriated by any by-law or resolution, has been directed to be applied to such payment. 36 V. c. 48, s. 254.

No officer to neglect, etc. to carry out by-law for payment under colour of illegal by-law,

**337.** No officer of the Municipality shall neglect or refuse to carry into effect a by-law for paying a debt under colour of a by-law illegally attempting to repeal such first mentioned by-law, or to alter the same so as to diminish the amount to be levied under it. 36 V. c. 48, s. 255.

Municipal councils may purchase public works, etc., and contract debts to Crown,

**338.** Any Council may contract a debt to Her Majesty in the purchase of any of the public roads, harbours, bridges, buildings or other public works in Ontario, whether belonging to this Province or to the Dominion of Canada, or of any claim in respect of such works, and may execute such bonds, deeds, covenants, and other securities to Her Majesty, as the Council may deem fit, for the payment of the price of any such public work or claim already sold or transferred, or which may be sold or transferred, or agreed to be sold or transferred to the municipal corporation, and for securing the performance and observance of all or any of the conditions of sale or transfer; and may also pass all necessary by-laws for any of the purposes aforesaid; and all such by-laws, debts, bonds, deeds, covenants and other securities shall be valid, although no special or other annual rate has been settled or imposed to be levied in each year, as provided by sections three hundred and thirty to three hundred and thirty-two of this Act. 36 V. c. 48, s. 256.

although no special or other annual rate settled.

Rates may be imposed for the payment of debts contracted with the Crown for such works.

**339.** The Council may in any by-law to be passed for the creation of any such debt, or for the executing of any such bonds, deeds, covenants, or other securities as aforesaid, to Her Majesty, or in any other by-law to be passed by the Council, settle and impose a special rate per annum, of such amount as the Council may deem expedient, in addition to all other rates whatsoever, to be levied in each year upon the assessed rateable property within the Municipality, for the payment and discharge of such debts, bonds, deeds, covenants or other securities, or some part thereof, and the by-laws shall be valid, although the rate settled or imposed thereby is less than is required by the sections last mentioned: and the said sections shall, so far as applicable, apply and extend to every such by-law, and the moneys raised or to be raised thereby, as fully in every respect as such provisions would extend or apply to any by-law enacted by any Council for the creation of any debt as provided in the said sections, or to the moneys raised or to be raised thereby. 36 V. c. 48, s. 257.

## DIVISION VII.—BY-LAWS RESPECTING YEARLY RATES.

*Amount and Limit of Rates.* Sec. 340.

*How estimated.* See. 341.

*Estimates and By-laws to be annual.* Secs. 342, 343.

*In case of deficiency.* Secs. 344, 345.

*In case of excess.* Sec. 346.

*Date from which Taxes imposed.* See. 347.

*Priority of Debentures.* See. 348.

*Power to Exempt from taxation.* Sec. 349.

*Reduction of Special Rate.* See. 350.

*Formalities in By-law therefor.* See. 351.

**340.** The Council of every Municipal Corporation, and of every Provisional Corporation, shall assess and levy on the whole rateable property within its jurisdiction, a sufficient sum in each year to pay all valid debts of the Corporation, whether of principal or interest, falling due within the year, but no such Council shall assess and levy in any one year more than an aggregate rate of two cents in the dollar on the actual value, exclusive of school rates.

Yearly rates to be levied, sufficient to pay all debts payable within the year.

Aggregate rate limited to two cents in the dollar.

2. If in any Municipality the aggregate amount of the rates necessary for the payment of the current annual expenses of the Municipality, and the interest and the principal of the debts contracted by such Municipality on the twenty-ninth day of March, 1873, exceed the said aggregate rate of two cents in the dollar on the actual value of such rateable property, the Council of such Municipality shall levy such further rates as may be necessary to discharge obligations up to that date incurred, but shall contract no further debts until the annual rates required to be levied within such Municipality are reduced within the aggregate rate aforesaid: but this shall not affect any special provisions to the contrary contained in any special Act now or hereafter in force. 36 V. c. 48, s. 258.

Provision when such aggregate not sufficient to pay debts payable within the year.

Proviso.

**341.** In Counties and local Municipalities the rates shall be calculated at so much in the dollar upon the actual value of all the real and personal property liable to assessment therein. 32 V. c. 36, s. 10.

How rates to be calculated.

**342.** The Council of every County or local Municipality shall every year make estimates of all sums which may be required for the lawful purposes of the County or local Municipality, for the year in which such sums are required to be levied, each Municipality making due allowance for the cost of collection, and of the abatement and losses which may occur in the collection of the tax, and for taxes on the lands of non-residents which may not be collected. 32 V. c. 36, s. 13.

Estimates to be made annually.

**343.** The Council of every Municipality may pass one by-law, or several by-laws, authorizing the levying and collecting of a rate or rates of so much in the dollar upon the assessed

By-laws for raising money by rate.

value of the property therein as the Council deems sufficient to raise the sums required on such estimates. 32 V. c. 36, s. 14.

If the amount collected falls short.

**344.** If the amount collected falls short of the sums required, the Council may direct the deficiency to be made up from any unappropriated fund belonging to the Municipality. 32 V. c. 36, s. 15.

Estimates may be reduced proportionally.

**345.** If there is no unappropriated fund, the deficiency may be equally deducted from the sums estimated as required, or from any one or more of them. 32 V. c. 36, s. 16.

When sums collected exceed estimate, appropriation of the balance.

**346.** If the sums collected exceed the estimates, the balance shall form part of the general fund of the Municipality, and be at the disposal of the Council, unless otherwise specially appropriated; but if any portion of the amount in excess has been collected on account of a special tax upon any particular locality, the amount in excess collected on account of such special tax shall be appropriated to the special local object. 32 V. c. 36, s. 17.

Yearly taxes to be computed from 1st January, unless otherwise ordered.

**347.** The taxes or rates imposed or levied for any year shall be considered to have been imposed, and to be due on and from the first day of January of the then current year, and end with the thirty-first day of December thereof, unless otherwise expressly provided for by the enactment or by-law under which the same are directed to be levied. 32 V. c. 36, s. 18.

Priority of debentures.

**348.** All debentures issued before the first day of January, in the year of our Lord one thousand eight hundred and sixty-seven, by Municipal Corporations, under any by-law, and based upon the yearly value of rateable property at the time of passing such by-law, shall hold the order of priority which they occupied on the said first day of January, one thousand eight hundred and sixty-seven; and each Municipal Corporation (having so issued debentures) shall levy a rate on the actual real value of the rateable property within the Municipality represented, sufficient to produce a sum equal to that leviable or produced on the yearly value of such property as established by the assessment roll for the year one thousand eight hundred and sixty-six; and such rates shall be applied solely to the payment of such debentures, or interest on such debentures, according to the terms of the by-law under which they were issued.

How rates for paying them to be calculated.

To be applied solely to such purposes.

Rate for sinking funds.

2. In cases where a sinking fund is required to be provided, either by the investment of a specific rate or amount, or on a rate on the increase in value over a certain sum, then such a rate shall be levied as shall at least equal the sum originally intended to be set apart. 32 V. c. 36, s. 11.



**349.** Every Municipal Council shall have the power of exempting any manufacturing establishment, in whole or in part, from taxation for any period not longer than ten years, and to renew this exemption for a further period not exceeding ten years. 36 V. c. 48, s. 259; and see post s. 454 (5). Power to exempt factories from taxation.

**350.** In case in any particular year, one or more of the following sources of revenue,—namely: When the rate imposed by by-law may be reduced by by-law.

(a.) The sum raised by the special rate imposed for the payment of a debt, and collected for any particular year; and

(b.) The sum on hand from previous years; and

(c.) Any sum derived for such particular year from the surplus income of any work, or of any share or interest therein, applicable to the sinking fund of the debt; and

(d.) Any sum derived from the temporary investment of the sinking fund of the debt, or any part of it, and carried to the credit of the special rate and sinking fund accounts respectively,

amount to more than the annual sum required to be raised as a special rate to pay the interest, and the instalment of the debt for the particular year, and leave a surplus to the credit of such accounts, or either of them, then the Council may pass a by-law reducing the total amount to be levied under the original by-law for the following year to a sum not less than the difference between such last mentioned surplus and the annual sum which the original by-law named and required to be raised as a special rate. 36 V. c. 48, s. 260.

**351.** The by-law shall not be valid unless it recites:—(1.) The amount of the special rate imposed by the original by-law; (2.) The balance, of such rate for the particular year, or on hand from former years; (3.) The surplus income of the work, share or interest therein received for such year; and (4.) The amount derived for such year from any temporary investment of the sinking fund— Recitals requisite in such by-law.

Nor unless the by-law names the reduced amount in the dollar to be levied under the original by-law— Reduced rate to be named.

Nor unless the by-law is afterwards approved by the Lieutenant-Governor in Council. 36 V. c. 48, s. 261. By-law to be approved of by the Lieut.-Governor.

#### DIVISION VIII.—ANTICIPATORY APPROPRIATIONS.

*When and how made. Secs. 352, 353.*

*By Senior for Junior Municipality. Sec. 354.*

**352.** In case any Council desires to make an anticipatory appropriation for the next ensuing year in lieu of the special rate for such year, in respect of any debt, the Council may do so, by by-law, in the manner and subject to the provisions and restrictions following: Anticipatory appropriations may be made.

What funds may be so appropriated.

1. The Council may carry to the credit of the sinking fund account of the debt, as much as may be necessary for the purpose aforesaid ;

(a.) Of any money at the credit of the special rate account of the debt beyond the interest on such debt for the year following that in which the anticipatory appropriation is made ;

(b.) And of any money raised for the purpose aforesaid by additional rate or otherwise ;

(c.) And of any money derived from any temporary investment of the sinking fund ;

(d.) And of any surplus money derived from any corporation work or any share or interest therein ;

(e.) And of any unappropriated money in the treasury ;

Such moneys respectively not having been otherwise appropriated ;

The sources and application to be stated.

2. The by-law making the appropriations shall distinguish the several sources of the amount, and the portions thereof to be respectively applied for the interest and for the sinking fund appropriation of the debt for such next ensuing year ;

When moneys retained sufficient, the yearly rate may be suspended for the ensuing year.

3. In case the moneys so retained at the credit of the special rate account, and so appropriated to the sinking fund account from all or any of the sources above mentioned, are sufficient to meet the sinking fund appropriation and interest for the next ensuing year, the Council may then pass a by-law directing that the original rate for such next ensuing year be not levied. 36 V. c. 48. s. 262.

By-law must recite—

**353.** The by-law shall not be valid unless it recites—

The original debt and object.

(a.) The original amount of the debt, and in brief and general terms, the object for which the debt was created ;

The amount paid.

(b.) The amount, if any, already paid of the debt ;

The annual amount for sinking fund.

(c.) The annual amount of the sinking fund appropriation required in respect of such debt ;

The amount for sinking fund in hand.

(d.) The total amount, then on hand, of the sinking fund appropriations, in respect to the debt, distinguishing the amount thereof in cash in the treasury from the amount temporarily invested ;

The amount required for interest.

(e.) The amount required to meet the interest of the debt for the year next after the making of such anticipatory appropriation ; and

And that it is reserved, etc.

(f.) That the Council has retained at the credit of the special rate account of the debt, a sum sufficient to meet the next year's

interest (naming the amount of it), and that the Council has carried to the credit of the sinking fund account a sum sufficient to meet the sinking fund appropriation (naming the amount of it) for such year;

2. No such by-law shall be valid unless approved by the Lieutenant-Governor in Council. 36 V. c. 48, s. 263.

By-law to be approved by Lieut. Governor.

**354.** After the dissolution of any Municipal Union, the Senior Municipality may make an anticipatory appropriation for the relief of the Junior Municipality, in respect of any debt secured by the by-law, in the same manner as the Senior Municipality might do on its own behalf. 36 V. c. 48, s. 264.

Anticipatory appropriation on separation of municipalities.

### TITLE III.—RESPECTING FINANCE.

#### DIV. I.—ACCOUNTS AND INVESTMENTS.

#### DIV. II.—COMMISSION OF INQUIRY INTO FINANCES.

#### DIVISION I.—ACCOUNTS AND INVESTMENTS.

*Accounts for Special Rate and Sinking Fund.* Sec. 355.

*Surplus on Special Rate, Application of.* Sec. 356-357.

*Surplus on Special Rate, Investment of.* Sec. 358.

*General Surplus, Application of.* Sec. 359-361.

*Unauthorized Application, Liability for.* Sec. 362.

*Yearly Returns to Government.* Sec. 363-364.

**355.** The Council of every Municipal Corporation shall keep in its books two separate accounts, one for the special rate, and one for the sinking fund, or for instalments of principal of every debt, to be both distinguished from all other accounts in the books by some prefix designating the purpose for which the debt was contracted, and shall keep the said accounts, with any others that are necessary, so as to exhibit at all times the state of every debt, and the amount of moneys raised, obtained and appropriated for payment thereof. 36 V. c. 48, s. 265.

Two special accounts to be kept; 1, of the special rates; 2, of the sinking fund or instalments of principal.

**356.** If, after paying the interest of a debt and appropriating the necessary sum to the sinking fund of such debt, or in payment of any instalment of principal, for any financial year, there is a surplus at the credit of the special rate account of such debt, such surplus shall so remain, and may be applied, if necessary, towards the next year's interest; but if such surplus exceeds the amount of the next year's interest, the excess shall be carried to the credit of the sinking fund account, or in payment of principal of such debt. 36 V. c. 48, s. 266.

When surplus may be applied to next year's interest, and to sinking fund.



Application of moneys with consent of Lieutenant-Governor in Council.

**357.** The Lieutenant-Governor in Council may, by order, direct that such part of the produce of the special rate levied, and at the credit of the sinking fund account or of the special rate account as aforesaid, instead of being so invested as hereinafter provided, shall from time to time, as the same accrues, be applied to the payment or redemption, at such value as the said Council can agree for, or of any part of such debt or of any of the debentures representing or constituting such debt, or any part of it, though not then payable, to be selected as provided in such order, and the Municipal Council shall thereupon apply and continue to apply such part of the produce of the special rate at the credit of the sinking fund or special rate accounts, as directed by such order. 36 V. c. 48, s. 267.

Surplus may be invested in certain cases.

**358.** If any part of the produce of the special rate levied in respect of any debt, and at the credit of the sinking fund account, or of the special rate account thereof, cannot be immediately applied towards paying the debt by reason of no part thereof being yet payable, the Council shall from time to time, invest in Government securities or otherwise, as the Lieutenant-Governor in Council may direct. 36 V. c. 48, s. 268.

Council may apply other funds towards such debts.

**359.** Every such Council may appropriate to the payment of any debt the surplus income derived from any public or corporation work, or from any share or interest therein, after paying the annual expenses thereof, or any unappropriated money in the treasury, or any money raised by additional rate: and any money so appropriated shall be carried to the credit of the sinking fund of the debt, or in payment of any instalment accruing due. 36 V. c. 48, s. 269.

Certain moneys may be set apart for educational purposes. Investment of same.

**360.** Any Municipal Corporation having surplus moneys derived from "The Ontario Municipalities Fund," or from any other source, may, by by-law, set such surplus apart for educational purposes, and invest the same as well as any other moneys held by such Municipal Corporation for, or by it lawfully appropriated to, educational purposes, in public securities of the Dominion, municipal debentures, or in first mortgages on real estate, held and used for farming purposes, and being the first lien on such real estate, and from time to time, as such securities mature, may invest in other like securities, or in the securities already authorized by law, as may be directed by such by-law or by other by-laws passed for that purpose.

Proviso: as to investment.

2. No sum so invested shall exceed two-thirds of the value of the real estate on which it is secured, according to the last revised and corrected assessment roll, at the time it is so invested. 36 V. c. 48, s. 270. See *Rev. Stat.* c. 28, s. 7; and c. 204, s. 93.

Loans to school trustees.

**361.** Any Municipal Corporation having surplus moneys set apart for educational purposes, may, by by-law, invest the same

in a loan or loans to any Board or Boards of School Trustees within the limits of the Municipality, for such term or terms, and at such rate or rates of interest as may be agreed upon by and between the parties to such loan or loans respectively, and may be set forth in such by-law ; or may by by-law grant any portion of such moneys or other general funds by way of gift to aid poor School Sections within the Municipality. 36 Aid to poor school sections  
V. c. 48, s. 271. See *Rev. Stat. c. 204, s. 94.*

**362.** No member of any Municipal Corporation shall take part in or in any way be a party to the investment of any such moneys as are mentioned in this Act, by or on behalf of the corporation of which he is a member, otherwise than is authorized by this Act, or by the seventh section of *The Act respecting the Clergy Reserves*, or by any other law in that behalf made and provided, and any such person so doing shall be held personally liable for any loss sustained by such Corporation. 36 No members of corporation to be party to investment.  
V. c. 48, s. 272. Rev. Stat. c. 28, s. 7. Liability for loss.

**363.** The Treasurer of every Municipality for which any sum of money has been raised on the credit of the Consolidated Municipal Loan Fund, shall, so long as any part of such sum, or of the interest thereon, remains unpaid by such Municipality, transmit to the Treasurer of Ontario, on or before the fifteenth day of January in every year, a return, certified on the oath of the Treasurer before some Justice of the Peace, containing the amount of taxable property in the Municipality according to the then last assessment roll or rolls ; a true account of all the debts and liabilities of the Municipality, for every purpose, for the then last year ; and such further information and particulars with regard to the liabilities and resources of the Municipality as the Lieutenant-Governor in Council may from time to time require, under a penalty, in case of neglect or refusal to transmit the return, account, information or particulars, of one hundred dollars, to be recovered with costs as a debt due to the Crown. 36 V. c. 48, s. 273. Municipalities indebted to Municipal Loan Fund to make annual returns to Provincial Treasurer. Penalty for default.

**364.** Every Council shall, on or before the thirty-first day of January in each year, under a penalty of twenty dollars in case of default, to be paid to the Treasurer of Ontario, transmit to the Lieutenant-Governor, through the Provincial Secretary, an account, in such form as may be prescribed from time to time by the Lieutenant-Governor in Council, of the several debts of the corporation, as they stood on the thirty-first day of December preceeding, specifying in regard to every debt of which a balance remained due at that day, Every Council to make a yearly report of state of debts to Lieutenant-Governor, etc.

1. The original amount of the debt ;
2. The date when it was contracted ;
3. The days fixed for its payment ;
4. The interest to be paid therefor ;

What such report must show.

5. The rate provided for the redemption of the debt and interest;

6. The proceeds of such rate for the year ending on such thirty-first day of December;

7. The portion (if any) of the debt redeemed or paid during such year;

8. The amount of interest (if any) unpaid on such last mentioned day; and

9. The balance still due of the principal of the debt. 36 V. c. 48, s. 274.

## DIVISION II.—COMMISSION OF INQUIRY INTO FINANCES.

*When granted.* Sec. 365.

*Expenses of.* Sec. 366.

When a commission of inquiry may issue.

**365.** In case one-third of the members of any Council, or thirty duly qualified electors of the Municipality, petition for a commission to issue under the Great Seal, to inquire into the financial affairs of the Corporation and things connected therewith, and if sufficient cause is shown, the Lieutenant-Governor in Council may issue a commission accordingly, and the commissioner or the commissioners, or such one or more of them as the commission empowers to act, shall have the same power to summon witnesses, enforce their attendance, and compel them to produce documents and to give evidence, as any Court has in civil cases. 36 V. c. 48, s. 275.

Expenses of such commissions provided for.

**366.** The expenses to be allowed for executing the commission shall be determined and certified by the Treasurer of Ontario, and shall thenceforth become a debt due to the commissioner or commissioners by the Corporation, and shall be payable within three months after demand thereof made by the commissioner, or by any one of the commissioners, at the office of the Treasurer of the Corporation. 36 V. c. 48, s. 276.

## TITLE IV.—ARBITRATIONS.

### DIVISION I.—APPOINTMENT OF ARBITRATORS.

### DIVISION II.—PROCEDURE.

### DIVISION I.—APPOINTMENT OF ARBITRATORS.

*How appointed.* Secs. 367-371.



*Failure of parties to appoint. Sec. 372.*

*Respecting real property, &c. Secs. 373-374.*

*Where several interests. Secs. 375-376.*

*Award, when to be made. Sec. 377.*

*Certain persons disqualified. Sec. 378.*

**367.** The appointment of all arbitrators shall be in writing Appointments  
under the hands of the appointers, or in case of a Corporation, how to be  
under the corporate seal, and authenticated in like manner as made.  
a by-law. 36 V. c. 48, s. 277.

**368.** The arbitrators on behalf of a Municipal Corporation Council or  
shall be appointed by the Council thereof, or by the head head thereof  
thereof, if authorized by a by-law of the Council. 36 V. c. 48, may appoint  
s. 278. for corpo-  
ration.

**369.** In cases where arbitration is directed by this Act, Mode of ap-  
either party may appoint an arbitrator, and give notice thereof pointing arbi-  
in writing to the other party, and therein calling upon such trators and  
party to appoint an arbitrator on behalf of the party to whom conducting  
such notice is given. A notice to a Corporation shall be given arbitrations.  
to the head of the Corporation. 36 V. c. 48, s. 279.

**370.** The two arbitrators appointed by or for the parties Third arbitra-  
shall within seven days from the appointment of the lastly tor to be ap-  
named of the two arbitrators appoint in writing a third arbi- pointed.  
trator. 36 V. c. 48, s. 280.

**371.** In cases where more than two Municipalities are in- When more  
terested, each of them shall appoint an arbitrator, and in such than two mu-  
case, if there is an equality of arbitrators, the arbitrators so nicipalities.  
appointed shall appoint another arbitrator, or in default, at the  
expiration of twenty-one days after such arbitrators have been  
appointed, the Lieutenant-Governor in Council may, on the ap-  
plication of any one of the Municipalities interested, appoint such  
arbitrator. 36 V. c. 48, s. 281.

**372.** In case of an arbitration between Municipal Corpora- Provision in  
tions, if for twenty-one days, or in case the arbitration is re- case of neglect  
specting drainage works, then, if for twenty days after hav- to appoint.  
ing received such notice, the party notified omits to appoint  
an arbitrator; or if for seven days after the second arbitrator  
has been appointed, the two arbitrators omit to appoint a third  
arbitrator, then, in case the arbitration is between Townships  
or between a Township and a Town or an incorporated Vil-  
lage, the Judge of the County Court of the County within  
which the Townships, Town or incorporated Village are or any  
of them is situate, or in case the arbitration is between other  
Municipalities, the Lieutenant-Governor in Council may ap-  
point an arbitrator for the party or arbitrators in default, or  
a third arbitrator, as the case may require. 36 V. c. 48, s.  
282.

Arbitration as to real property taken or injured by Municipal Corporations.

**373.** In case of an arbitration between a Municipal Corporation and the owners or occupiers of, or other persons interested in real property entered upon, taken or used by the Corporation in the exercise of any of its powers, or injuriously affected thereby, if, after the passing of the by-law, any person interested in the property appoints and gives due notice to the head of the Council of his appointment of an arbitrator to determine the compensation to which such person is entitled, the head of the Council shall, if authorized by by-law, within seven days appoint a second arbitrator, and give notice thereof to the other party, and shall express clearly in the notice what powers the Council intends to exercise with respect to the property, describing it. 36 V. c. 48, s. 283; 40 V. c. 7, *Sched. A*, (177.)

Provision if owner of property fails to name arbitrator.

**374.** In any such last mentioned arbitration, if after service on the owner or occupier of, or person so interested in, the property of a copy of any by-law, certified to be a true copy under the hand of the Clerk of the Council, the owner or occupier or person so interested omits for twenty-one days to name an arbitrator, and give notice thereof as aforesaid, the Council or the head, if authorized by by-law, may name an arbitrator on behalf of the Council, and give notice thereof to such owner, occupier or person so interested, and the latter shall, within seven days thereafter, name an arbitrator on his behalf. 36 V. c. 48, s. 284; 40 V. c. 7, *Sched. A* (177).

Where several parties are interested in the same property.

**375.** In case there are several persons having distinct interests in property in respect of which the Corporation is desirous of exercising the powers referred to in the three hundred and seventy-third section, under a by-law in that behalf passed, whether such persons are all interested in the same piece of property, or some or one in a part thereof, and some or one in another part thereof, and in case the by-law or any subsequent by-law provides that the claims of all should, in the opinion of the Council, be disposed of by one award, such persons shall have twenty-one (instead of seven) days to agree upon and give notice of an arbitrator jointly appointed in their behalf before the County Court Judge shall have power to name an arbitrator for them. 36 V. c. 48, s. 285.

County Court judge to appoint arbitrator in certain cases.

**376.** If any such owner, occupier or person so interested, or the head of any such Council, whether from want of authority in that behalf, or otherwise, omits to name an arbitrator within seven days after receiving notice to do so, or if the persons having distinct interests as aforesaid omit to name an arbitrator within twenty-one days after receiving notice to do so, or if the two arbitrators do not within seven days from the appointment of the lastly named of the two arbitrators agree on a third arbitrator, or if any of said arbitrators refuse or neglect to act, the Judge of the County Court of the County in which the property is situated, on the application of either party, shall nominate as an arbitrator a fit person resident without the limits

of the Municipality in which the property in question is situate, to act for the party failing to appoint, or as such third arbitrator, or in the stead of the arbitrator refusing or neglecting to act, and such arbitrators shall forthwith proceed to hear and determine the matters referred to them. 36 V. c. 48, s. 286; 40 V. c. 7, *Sched. A* (178).

**377.** In any of the cases herein provided for, the arbitrators shall make their award within one month after the appointment of the third arbitrator. 36 V. c. 48, s. 287. Time for making award.

**378.** No member, officer or person in the employment of any corporation which is concerned or interested in any arbitration, nor any person so interested, shall be appointed or act as an arbitrator in any case of arbitration under this Act. 36 V. c. 48, s. 288. Persons disqualified from acting as arbitrators.

## DIVISION II.—PROCEDURE.

*Oath of Arbitrator. Sec. 379.*

*Proceedings. Sec. 380.*

*Costs, power over. Sec. 381.*

*Majority to decide. Sec. 382.*

*Evidence, where filed. Sec. 383.*

*Award, when adoption by By-law required. Sec. 384.*

*Award, how made, and jurisdiction of Courts. Sec. 385.*

**379.** Every arbitrator, before proceeding to try the matter of the arbitration, shall take and subscribe the following oath (or in case of those who by law affirm, make and subscribe the following affirmation) before any Justice of the Peace : Arbitrators to be sworn.

“ I (A. B.) do swear (or affirm) that I will well and truly try the matters referred to me by the parties, and a true and impartial award make in the premises, according to the evidence and my skill and knowledge. So help me God.” Form of oath

36 V. c. 48, s. 289

**380.** The arbitrators shall, within twenty days after the appointment of the third arbitrator, meet at such place as they may agree upon, to hear and determine the matter in dispute, with power to adjourn from time to time, and shall make their award in writing, and, if the arbitration is respecting drainage works, in triplicate, which shall be binding on all parties, and one copy thereof shall be filed with the Clerk of each of the Municipalities interested, and one shall, in case the arbitration is respecting drainage works as aforesaid, be filed with the Registrar of deeds for the County or other Registration Division in which the lands affected are situate. 36 V. c. 48, s. 290. Time of meeting, &c.

**381.** The arbitrators shall have power to award the pay- Costs.



ment by any of the parties to the other of the costs of the arbitration, or of any portion thereof, and may either direct the payment of a fixed sum, or that such costs should be taxed on either the scale of Superior Courts of Common Law, or of the County Courts, in which case such costs shall be taxed by the officer in the County of the proper Court, without any further order, and the amount shall be payable one week after such taxation. Revision by the principal officer at Toronto may be had upon one week's notice and an appeal to a Judge in the usual manner. 36 V. c. 48, s. 291.

Majority to decide.

**382.** In case of a difference between the arbitrators, the decision of the majority of them shall be conclusive. 36 V. c. 48, s. 292.

Notes of the evidence adduced to be taken and filed in certain cases.

**383.** In the case of any award under this Act, which does not require adoption by the Council, or in case of any award to which a Municipal Corporation is a party, and which is to be made in pursuance of a submission containing an agreement that this section of this Act should apply thereto, the arbitrator or arbitrators shall take, and immediately after the making of the award, shall file with the Clerk of the Council, for the inspection of all parties interested, full notes of the oral evidence given on the reference, and also all documentary evidence or a copy thereof; and in case they proceed partly on a view or any knowledge or skill possessed by themselves or any of them, they shall also put in writing a statement thereof sufficiently full to allow the Court to form a judgment of the weight which should be attached thereto. 36 V. c. 48, s. 293.

Grounds of decision, etc., to be stated in writing.

Award to be binding in certain cases, must be adopted by by-law within a certain time.

**384.** In case the award relates to property to be entered upon, taken or used as mentioned in the three hundred and seventy-third section, and in case the by-law did not authorize or profess to authorize any entry or use to be made of the property before an award has been made, except for the purpose of survey, or in case the by-law did give or profess to give such authority, but the arbitrators find that such authority had not been acted upon, the award shall not be binding on the Corporation unless it is adopted by by-law within six weeks after the making of the award; and if the same is not so adopted, the original by-law shall be deemed to be repealed, and the property shall stand as if no such by-law had been made, and the corporation shall pay the costs of the arbitration. 36 V. c. 48, s. 294.

Award to be made by at least two arbitrators, and subject to Superior Courts.

**385.** Every award made under this Act shall be in writing under the hands of all or two of the arbitrators, and shall be subject to the jurisdiction of any of the Superior Courts of Law or Equity, as if made on a submission by a bond containing an agreement for making the submission a rule or order of such Court; and in the cases provided for by the three hundred and eighty-third section, the Court shall consider not only the legality of the award but the merits as they appear from the proceed-

ings so filed as aforesaid, and may call for additional evidence to be taken in any manner the Court directs, and may, either without taking such evidence or after taking such evidence, set aside the award or remit the matters referred, or any of them, from time to time, to the consideration and determination of the same arbitrators, or to any other person or persons whom the Court may appoint, as prescribed in "*The Common Law Procedure Act*," and fix the time within which such further or new award shall be made, or the Court may itself increase or diminish the amount awarded or otherwise modify the award, as the justice of the case may seem to the Court to require. 36 V. c. 48, s. 295.

Powers of the Courts in such matters.

Rev. Stat. c. 50.

## TITLE V.—DEBENTURES AND OTHER INSTRUMENTS.

*To be under seal and bear signature of head.* Sec. 386.

*Railway Debentures.* Sec. 387.

*Defects in form.* Sec. 388.

*Local Improvement Debentures.* Sec. 389.

*Transfer of Registered Debentures.* Secs. 390-393.

*No issue under \$100.* Sec. 394.

*Restrictions as to Banking.* 29-30 V. c. 51, ss. 218, 219. p. 1701.

**386.** All debentures and other instruments duly authorized to be executed on behalf of a Municipal Corporation shall, unless otherwise specially authorized or provided, be sealed with the seal of the Corporation, and be signed by the head thereof, or by some other person authorized by by-law to sign the same, otherwise the same shall not be valid, and it shall be the duty of the Treasurer of the Municipality to see that the money collected under such by-law is properly applied to the payment of the interest and principal of such debentures. 36 V. c. 48, s. 296.

Debentures, bonds, &c., how to be executed.

[Section 217 of 29-30 V. c. 51, is as follows:—

217. Any such debenture issued as aforesaid shall be valid and recoverable to the full amount, notwithstanding its negotiation by such Corporation at a rate less than par, or at a rate of interest greater than six per centum per annum, or although a rate of interest greater than six per centum per annum is reserved thereby or made payable thereon.]

Full amount recoverable, though negotiated at interest exceeding 6 per cent or below par.

**387.** Any debenture issued in aid of any railway, or for any bonus, signed or endorsed and countersigned as directed by the by-law, shall be valid and binding on the Corporation without the corporate seal thereto, or the observance of any other form with regard to the debenture than such as may be directed in the by-law. 36 V. c. 48, s. 297.

In certain cases, debentures valid without corporate seal, &c.

Debentures  
valid notwith-  
standing de-  
fect in form.

Proviso.

**388.** Any debentures issued under the authority of any by-law which has been promulgated under chapter forty-eight of the Acts passed in the thirty-sixth year of Her Majesty's reign or under this Act, shall be valid and binding upon the corporation, notwithstanding any insufficiency in form or otherwise of such by-law, or in the authority of the corporation in respect thereof: Provided that the said by-law is in accordance with subsections one to five, both inclusive, of section three hundred and thirty, or in accordance with section three hundred and thirty-two, and has received the assent of the electors where necessary, and that no successful application has been made to quash the same before the end of the next Term after the promulgation thereof. 36 V. c. 48, s. 298; 39 V. c. 7, s. 2 (*Sched.*)

Form of de-  
benture.

**389.** Every debenture issued under the sections of this Act numbered five hundred and fifty-one, five hundred and fifty-two, and five hundred and fifty-three, shall bear on its face the words "*Local Improvement Debenture*," and shall contain a reference, by date and number, to the by-law under which it is issued. 36 V. c. 48, s. 299.

Mode of trans-  
fer may be  
prescribed.

**390.** Any debentures to be issued by any Municipal Council may contain a provision in the following words:

"This debenture, or any interest therein, shall not, *after* a certificate of ownership has been endorsed thereon by the Treasurer of this Municipal corporation, be transferable, except by entry by the Treasurer or his deputy in the Debenture Registry Book of the said Corporation at the Town (or Village) of \_\_\_\_\_, " *or to the like effect.*

36 V. c. 48, s. 300.

Debenture  
registry book.

**391.** The Treasurer of every Municipality issuing any debentures containing the provision in the last section mentioned, shall open and keep a Debenture Registry Book, in which he shall enter a copy of all certificates of ownership of debentures, which he may give, and also every subsequent transfer of any such debenture; such entry shall not be made except upon the written authority of the person last entered in such book as the owner of such debenture, or of his executors or administrators, or of his or their lawful attorney, which authority shall be retained by the said Treasurer and duly filed. 36 V. c. 48, s. 301.

Registered  
debentures  
transferred by  
entry, etc.

**392.** After such certificate of ownership has been endorsed as aforesaid, such debenture shall only be transferable by entry, by the Treasurer of the Municipality or his deputy, in such Debenture Registry Book, from time to time, as transfers of such debenture are authorized by the then owner thereof, or his lawful attorney. 36 V. c. 48, s. 302.

Council may  
authorize the  
borrowing of  
sums to pay  
current  
expenses.

**393.** The Council of every Municipality may authorize its head, with the Treasurer thereof, under the seal of the Corporation, to borrow from any person or bank such sums as may be required to meet the then current expenditure of the Corpo-



ration, until such time as the taxes levied therefor can be collected, and the Council shall by by-law regulate the amounts to be so borrowed, and the promissory note or notes to be given in security therefor. 36 V. c. 48, s. 303.

**394.** No Council shall, unless specially authorized so to do, make or give any bond, bill, note, debenture or other undertaking, for the payment of a less amount than one hundred dollars; and any bond, bill, note, debenture or other undertaking issued in contravention of this section, shall be void: but nothing herein contained shall be construed to affect or repeal so much of the provisions of sections two hundred and eighteen and two hundred and nineteen of the Act of the Parliament of the late Province of Canada, passed in the Session held in the twenty-ninth and thirtieth years of the reign of Her present Majesty, and chaptered fifty-one, as is intended to prohibit Municipal Councils acting as bankers, or issuing notes to circulate as those of a bank. 36 V. c. 48, s. 304.

Without special authority, no bond, etc. etc., to be given for less than \$100.

Proviso.

*[Sections 218 and 219 of 29-30, V. c. 51, are as follows:—*

218. No Council shall act as bankers, or issue any bond, bill, note, debenture or other undertaking, of any kind or in any form, in the nature of a bank bill or note, or intended to form a circulating medium, or to supply the place of specie, or to pass as money; nor, unless specially authorized so to do, shall any Council make or give any bond, bill, note, debenture or other undertaking, for the payment of a less amount than one hundred dollars; and any bond, bill, note, debenture or other undertaking issued in contravention of this section shall be void.

Restrictions upon Councils as to banking, issuing bills, bonds, &c.

219. In case any person issues or makes, or assists in issuing or making, or knowingly utters or tenders in payment or exchange, any bond, bill, note, debenture or undertaking, of any kind or in any form, in the nature of a bank bill or note, intended to form a circulating medium, or to supply the place of specie, or to pass as money, contrary to this Act, such person shall be guilty of a misdemeanor.

To issue banking, notes, &c., contrary to this Act, declared a misdemeanor.

## TITLE VI.—RESPECTING THE ADMINISTRATION OF JUSTICE AND JUDICIAL PROCEEDINGS.

DIV. I.—JUSTICES OF THE PEACE.

DIV. II.—PENALTIES.

DIV. III.—WITNESSES AND JURORS.

DIV. IV.—CONVICTIONS UNDER BY-LAWS.

DIV. V.—EXECUTION AGAINST MUNICIPAL CORPORATIONS.

DIV. VI.—CONTRACTS VOID ALIKE IN LAW AND EQUITY.

DIV. VII.—POLICE OFFICE AND POLICE MAGISTRATE.

DIV. VIII.—BOARD OF COMMISSIONERS OF POLICE AND POLICE FORCE.

DIV. IX.—COURT HOUSES, GAOLS AND OTHER PLACES OF IMPRISONMENT.

DIV. X.—INVESTIGATIONS AS TO MALFEASANCE OF CORPORATE OFFICERS.

DIV. XI.—WHEN MAYOR MAY CALL OUT *Posse Comitatus*.

### DIVISION I.—JUSTICES OF THE PEACE.

(See also *Rev. Stat. c. 72.*)

*Justices of the Peace, Who are ex officio. Secs. 395-397.*

*Jurisdiction of Mayors of Cities and Towns. Sec. 396.*

*Jurisdiction of Justices in cases under By-laws. Secs. 398, 399.*

Certain persons to be *ex officio* justices of the peace.

**395.** The head of every Council, and the Reeve of every Town, Township and incorporated Village, shall, *ex officio*, be Justices of the Peace for the whole County, or Union of Counties, in which their respective Municipalities lie, and Aldermen in Cities shall be Justices of the Peace for such Cities. 36 V. c. 48, s. 306.

Jurisdiction of mayors over certain offences.

**396.** The Mayor of a Town or City where there is no Police Magistrate, shall have jurisdiction, in addition to his other powers, to try and determine all prosecutions for offences against the by-laws of the Town or City, and for penalties for refusing to accept office therein, or to make the necessary declarations of qualification and office. 36 V. c. 48, s. 309.

Qualification of certain officials.

**397.** No Warden, Mayor, Reeve, or Alderman, after taking the oaths or making the declarations as such, shall be required to have any property qualification, or to take any further oath to enable him to act as a Justice of the Peace. 36 V. c. 48, s. 314.

Jurisdiction of justices under by-laws.

**398.** Every Justice of the Peace for a County shall have jurisdiction in all cases arising under any by-law of any Municipality in such County, where there is no Police Magistrate. 36 V. c. 48, s. 310.

Jurisdiction in cases not specially provided for.

**399.** In case any offence is committed against a by-law of a Council, for the prosecution of which offence no other provision is made, any Justice of the Peace having jurisdiction in the locality where the offender resides, or where the offence was committed, whether the Justice is a member of the Council or not, may try and determine any prosecution for the offence. 36 V. c. 48, s. 311.

## DIVISION II.—PENALTIES.

*Recovery and enforcement thereof. Sec. 400–402.*

*Where offence against By-Laws. Sec. 401.*

*Application of penalties. Sec. 403.*

**400.** Every fine and penalty imposed by or under the authority of this Act may, unless where other provision is specially made therefor, be recovered and enforced with costs, by summary conviction, before any Justice of the Peace for the County, or of the Municipality in which the offence was committed; and in default of payment the offender may be committed to the Common Gaol, House of Correction, or Lock-up House of such County or Municipality, there to be imprisoned for any time, in the discretion of the convicting Justice, not exceeding, (unless where other provision is specially made), thirty days, unless such fine and penalty, and costs, including the costs of the committal, are sooner paid. 36<sup>a</sup> V. c. 48, s. 315.

Recovery and enforcement of penalties.

Imprisonment in default of payment.

**401.** The Justice or other authority before whom a prosecution is had for an offence against a municipal by-law, may convict the offender on the oath or affirmation of any credible witness, and shall award the whole or such part of the penalty or punishment imposed by the by-law as he thinks fit, with the costs of prosecution, and may by warrant, under the hand and seal of the Justice or other authority, or in case two or more Justices act together therein, then under the hand and seal of one of them, cause any such pecuniary penalty and costs, or costs only, if not forthwith paid, to be levied by distress and sale of the goods and chattels of the offender. 36 V. c. 48, s. 317

Penalties imposed by by-laws.

Award of penalty and costs.

How levied.

**402.** In case of there being no distress found out of which the penalty can be levied, the Justice may commit the offender to the Common Gaol, House of Correction, or nearest Lock-up House, for the term, or some part thereof, specified in the by-law. 36 V. c. 48, s. 318.

Commitment in default of distress.

**403.** Unless otherwise provided, when the pecuniary penalty has been levied under this Act, one moiety thereof shall go to the informer or prosecutor, and the other moiety to the Municipal Corporation, unless the prosecution is brought in the name of the Corporation, in which case the whole of the pecuniary penalty shall be paid to the Corporation. 36 V. c. 48, s. 319.

Fines, how applied.

[See as to summary method of enforcing by-laws Sec. 455.]

## DIVISION III.—WITNESSES AND JURORS.

*Witnesses, who may be. Sec. 404*



*Ratepayers, members, officers, &c., of corporations as witnesses. Sec. 405.*

*Liable to challenge as jurors. Sec. 405.*

*Compelling attendance of witnesses. Sec. 406.*

Who may be a witness.

**404.** Upon the hearing of any information or complaint exhibited or made under this Act, the person giving or making the information or complaint shall be a competent witness, notwithstanding such person may be entitled to part of the pecuniary penalty on the conviction of the offender, and the defendant, and the wife or husband of such persons opposing or defending, shall also be competent witnesses; and all the said persons shall be compellable to give evidence on such hearing 36 V. c. 10, s. 4: c. 48, s. 320.

Ratepayers, members, officers, &c., of corporation competent witnesses—may be challenged as jurors.

**405.** In any prosecution, suit, action or proceeding in any civil matter to which a Municipal Corporation is a party, no ratepayer, member, officer or servant of the corporation shall, on account of his being such, be incompetent as a witness; but they, and every of them, shall be liable to challenge as a juror, except where the Corporation, the party to such prosecution, suit, action or proceeding, is a County. 36 V. c. 48, s. 321.

Compelling witnesses to attend, &c.

**406.** In prosecuting under any by-law, or for the breach of any by-law, witnesses may be compelled to attend and give evidence in the same manner, and by the same process, as witnesses are compelled to attend and give evidence on summary proceedings before Justices of the Peace in cases tried summarily, under the statutes now in force, or which may be hereafter enacted. 36 V. c. 48, s. 322.

#### DIVISION IV.—CONVICTIONS UNDER BY-LAWS.

*Form of Conviction. Sec. 407.*

Form of conviction under by-laws.

**407.** It shall not be necessary in any conviction made under any by-law of any Municipal Corporation, to set out the information, appearance or non-appearance of the defendant, or the evidence or by-law under which the conviction is made, but all such convictions may be in the form following:

PROVINCE OF ONTARIO, }	BE IT REMEMBERED
County of , }	day of , A.D.
To Wit. , }	at , in the County of
, A. B. is convicted before the undersigned, one of Her Majesty's Justices of the Peace in and for the said County, for that the said A. B. (stating the offence, and time and place, and when and where committed), contrary to a certain by-law of the Municipality of the of , in the said County of , passed on the day of , A.D. , and intituled (reciting the title of the by-law); and I adjudge the said A. B., for his said offence, to forfeit and pay the sum of , to be paid and applied according to law, and	

also to pay to C. D., the complainant, the sum of \_\_\_\_\_ for his costs in this behalf. And if the said several sums are not paid forthwith (or on or before the \_\_\_\_\_ day of \_\_\_\_\_, as the case may be), I order that the same be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress, I adjudge the said A. B. to be imprisoned in the Common Gaol of the said County of \_\_\_\_\_ (or, in the public Lock-up at \_\_\_\_\_) for the space of \_\_\_\_\_ days, unless the said several sums, and all costs and charges of conveying the said A. B. to such Gaol (or Lock-up), are sooner paid.

Given under my hand and seal, the day and year first above written at \_\_\_\_\_, in the said County. \_\_\_\_\_,

(L.S)

J. M.,  
J.P.

36 V. c. 48, s. 323.

#### DIVISION V.—EXECUTION AGAINST MUNICIPAL CORPORATIONS.

*Proceedings thereon. Sec. 408.*

*Municipal Officers, also Officers of Court. Sec. 409.*

**408.** Any writ of execution against a Municipal Corporation may be endorsed with a direction to the Sheriff to levy on writs of execution against Municipalities, the amount thereof by rate, and the proceedings thereon shall then be the following:

1. The Sheriff shall deliver a copy of the writ and endorsement to the Treasurer, or leave such copy at the office or dwelling-house of that officer, with a statement in writing of the Sheriff's fees, and of the amount required to satisfy such execution, including in such amount the interest calculated to some day as near as is convenient to the day of the service;

2. In case the amount, with interest thereon from the day mentioned in the statement, is not paid to the Sheriff within one month after the service, the Sheriff shall examine the assessment rolls of the Corporation, and shall, in like manner as rates are struck for general municipal purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition to the same as the Sheriff deems sufficient to cover the interest, his own fees, and the Collector's percentage, up to the time when such rate will probably be available;

3. The Sheriff shall thereupon issue a precept or precepts, under his hand and seal of office, directed to the Collector or respective Collectors of the Corporation, and shall annex to every precept the roll of such rate, and shall by such precept, after reciting the writ, and that the Corporation had neglected to satisfy the same, and referring to the roll annexed to the precept, command the Collector or Collectors, within their respective jurisdictions, to levy such rate at the time and in the manner by law required in respect of the general annual rates;

Rate rolls.

4. In case at the time for levying the annual rates next after the receipt of such precept, the Collectors have a general rate roll delivered to them for such year, they shall add a column thereto, headed "*Execution rate in A. B. vs. The Township*" (or as the case may be, adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time they are required to make the returns of the general annual rate, return to the Sheriff the precept with the amount levied thereon, after deducting their percentage;

Surplus.

5. The Sheriff shall, after satisfying the execution and all fees thereon, pay any surplus, within ten days after receiving the same, to the Treasurer, for the general purposes of the Corporation. 36 V. c. 48, s. 324.

Clerk, Assessors and Collectors to be officers of the court from which writ issues.

**409.** The Clerk, Assessors and Collectors of the Corporation shall, for all purposes connected with carrying into effect, or permitting or assisting the Sheriff to carry into effect, the provisions of this Act, with respect to such executions, be deemed to be officers of the Court out of which the writ issued, and as such shall be amenable to the Court, and may be proceeded against by attachment, mandamus or otherwise, in order to compel them to perform the duties hereby imposed upon them. 36 V. c. 48, s. 325.

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#### DIVISION VI.—CONTRACTS VOID ALIKE IN LAW AND EQUITY.

*Contracts with members of Council void.* Sec. 410.

Contracts by members with the Corporation to be void at law if void in equity.

**410.** In case a member of the Council of any Municipality, either in his own name or in the name of another, and either alone or jointly with another, enters into a contract of any kind, or makes a purchase or sale in which the Corporation is a party interested, and which is on that account void or voidable in Equity, the same contract, purchase or sale shall also be held void in any action at Law thereon against the Corporation. 36 V. c. 48, s. 327.

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#### DIVISION VII.—POLICE OFFICE AND POLICE MAGISTRATE.

(See also *Rev. Stat.* c. 72.)

*Who to preside in Police Office.* Sec. 411.

*Clerk of.* Sec. 412.

Police offices in cities and towns.

**411.** The Council of every Town and City shall establish therein a Police Office; and the Police Magistrate, or in his



absence, or where there is no Police Magistrate, the Mayor of the Town or City shall attend at such Police Office daily or at such times and for such period as may be necessary for the disposal of the business brought before him as a Justice of the Peace; but any Justice of the Peace having jurisdiction in a Town or City may, at the request of the Mayor thereof, act in his stead at the Police Office.

2. Except in cases of urgent necessity, no attendance is required on Sunday, Christmas Day, or Good Friday, or any day appointed by proclamation for a Public Fast, Thanksgiving, or Holiday, or on any day set apart by the Council as a Civic Holiday. 36 V. c. 48, s. 328.

**412.** The Clerk of the Council of every City or Town, or such other person as the Council of the City or Town appoints for that purpose, shall be the Clerk of the Police Office thereof, and perform the same duties and receive the same emoluments as Clerks of Justices of the Peace; and in case the said Clerk is paid by a fixed salary, the said emoluments shall be paid by him to the Municipality, and form part of its funds, and such Clerk shall be the officer of and under the Police Magistrate. 36 V. c. 48, s. 329.

Clerk of police office, and his duties.

Fees or salary.

#### DIVISION VIII.—BOARD OF COMMISSIONERS OF POLICE IN CITIES AND POLICE FORCE IN CITIES AND TOWNS.

*Board, members of.* Sec. 413.

*Powers of, as to witnesses.* Sec. 414.

*Quorum, who to be.* Sec. 414.

*May license horses, cabs, &c.* Sec. 415.

*By-laws of, how authenticated and proved.* Sec. 416.

*Infraction of, how punishable.* Sec. 417.

*High Bailiffs.* Sec. 418.

*Police Force.* Sec. 419.

*Appointment of.* Sec. 420.

*Regulations for.* Sec. 421.

*Duties of.* Sec. 422.

*Remuneration of.* Sec. 423.

*Constables in Towns where no Police Magistrate.* Sec. 424.

*Dissolution of present Boards.* Sec. 425.

*Arrests without warrant.* Sec. 426.

*Suspension from office.* Secs. 427, 428.

**413.** In every City there is hereby constituted a Board of Commissioners of Police, and in every Town having a Police Magistrate the Council may constitute a like Board; and such Board shall consist of the Mayor, the Judge of the County Court of the County in which the City or Town is situate, and the Police Magistrate; and in case the office of County Judge or

Board of Commissioners of Police in cities and towns, of whom composed.

that of Police Magistrate is vacant, the Council of the City shall and the Council of the Town may appoint a person resident therein to be a member of the Board, or two persons so resident to be members thereof, as the case may require, during such vacancy: but the Council of any such Town may at any time, by by-law, dissolve and put an end to the Board, and thereafter the Council shall have and exercise all powers and duties previously had or exercised by the Board. 37 V. c. 16, s. 10.

Powers as to witnesses.

Majority to constitute a quorum.

**414.** Such Commissioners shall have power to summon and examine witnesses on oath in all matters connected with the administration of their duties; and a majority of the Board shall constitute a quorum, and the acts of a majority shall be considered acts of the Board. 36 V. c. 48, s. 334; 37 V. c. 16, s. 10.

Licensing livery stables, cabs, etc.

Shall make by-laws.

**415.** The Board of Commissioners of Police shall in Cities regulate and license the owners of livery stables and of horses, cabs, carriages, omnibuses, and other vehicles used for hire, and shall establish the rates of fare to be taken by the owners or drivers, and may provide for enforcing payment of such rates, and for such purposes shall pass by-laws and enforce the same in the manner and to the extent in which any by-law to be passed under the authority of this Act may be enforced. 36 V. c. 48, s. 335.

How such by-laws authenticated and proved.

**416.** All by-laws of such Board of Commissioners of Police shall be sufficiently authenticated by being signed by the Chairman of the Board, which passes the same; and a copy of any such by-law written or printed and certified to be a true copy by any member of such Board, shall be deemed authentic, and be received in evidence in any Court of justice without proof of any such signature, unless it is specially pleaded or alleged that the signature to any such original by-law has been forged. 36 V. c. 48, s. 336.

May be enforced by penalties, etc.

How recovered

**417.** In all cases where the Board of Commissioners of Police are authorized to make by-laws, either under this or any other Act or law, they shall have power in and by such by-laws to attach penalties for the infraction thereof, to be recovered and enforced by summary proceedings before the Police Magistrate of the City for which the same are passed, or, in his absence, before any Justice of the Peace having jurisdiction therein, in the manner and to the extent that by-laws of City Councils may be enforced under the authority of this Act; and the convictions in such proceedings may be in the form hereinbefore set forth. 36 V. c. 48, s. 337.

High bailiffs.

**418.** The Council of every City shall appoint a High Bailiff but may provide by by-law that the offices of High Bailiff and Chief Constable shall be held by the same person. 36 V. c. 48, s. 338.

**419.** The Police Force in Cities and Towns having a Board of Commissioners of Police, shall consist of a Chief Constable and as many Constables and other officers and assistants as the Council from time to time deem necessary, but in Cities, not less in number than the Board reports to be absolutely required. 37 V. c. 16, s. 11.

Police force in cities and towns.

**420.** The members of such Police Force shall be appointed by and hold their offices at the pleasure of the Board, and shall take and subscribe to the following oath:—

Appointment of members thereof.

I, *A. B.*, do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Police Constable for the  
of  
without favour or affection, malice or ill-will ;  
and that I will, to the best of my power, cause the peace to be kept and preserved, and will prevent all offences against the persons and properties of Her Majesty's subjects ; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law.

Oath of office.

36 V. c. 48, s. 340.

**421.** The Board shall, from time to time, make such regulations as they may deem expedient for the government of the force, and for preventing neglect or abuse, and for rendering the force efficient in the discharge of all its duties. 36 V. c. 48, s. 341.

Board to make police regulations.

**422.** The Constables shall obey all lawful directions, and be subject to the government of the Board, and shall be charged with the special duties of preserving the peace, preventing robberies and other felonies and misdemeanors, and apprehending offenders; and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities which belong by law to Constables duly appointed. 36 V. c. 48, s. 342.

Constables to be subject to the board.

Duties of constables.

**423.** The Council shall appropriate and pay such remuneration for and to the respective members of the force as may be required by the Board of Commissioners of Police; and shall provide and pay for all such offices, watch-houses, watch-boxes, arms, accoutrements, clothing and other necessities as the Board may from time to time deem requisite and require for the payment, accommodation and use of the force. 36 V. c. 48, s. 343.

Remuneration and contingent expenses.

**424.** The Council of every Town not having a Board of Commissioners of Police shall, and the Council of every incorporated Village may, appoint one Chief Constable, and one or more constables for the Municipality ; and the persons so appointed shall hold office during the pleasure of the Council. 37 V. c. 16, s. 12.

Constables in towns and villages.

**425.** Wherever in any Town there was on the twenty-fourth day of March, 1874, a Board of Commissioners of Police constituted under the Acts then in force respecting Municipal Institutions in this Province, the Council of said Town may by by-law dissolve and put an end to said Board, and thereafter the Council

Dissolution of boards of police commissioners in towns.



shall have and exercise all powers and duties which might, under said Acts, have been had or exercised by said Board; and unless and until so dissolved and put an end to, the said Board shall have and exercise all the powers and duties which, but for this section, would have been exercised or had by said Board. 37 V. c. 16, s. 13.

Arrests by constables for alleged breaches of the peace not committed in their presence.

**426.** In case any person complains to a Chief of Police, or to a constable in a Town or City, of a breach of the peace having been committed, and in case such officer has reason to believe that a breach of the peace has been committed, though not in his presence, and that there is good reason to apprehend that the arrest of the person charged with committing the same is necessary to prevent his escape or to prevent a renewal of a breach of the peace, or to prevent immediate violence to person or property, then if the person complaining gives satisfactory security to the officer that he will without delay appear and prosecute the charge before the Police Magistrate or before the Mayor or sitting Justice, such officer may, without warrant, arrest the person charged in order to his being conveyed as soon as conveniently may be before the Magistrate, Mayor or Justice, to be dealt with according to law. 36 V. c. 48, s. 345.

Until a board of police is organized, mayor, etc., may suspend chief constable, etc., from office, etc.

**427.** Until the organization of a Board of Police, every Mayor or Police Magistrate may, within his jurisdiction, suspend from office, for any period in his discretion, the Chief Constable, or any Constable of the Town or City, and may, if he chooses, appoint some other person to the office during such period: and in case he considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, report the case to the Council, and the Council may dismiss such officer, or may direct him to be restored to his office after the period of his suspension has expired; and the City Council shall have the like powers as to the High Bailiff of the City. 36 V. c. 48, s. 346.

Incapacity of such officer to act.

**428.** During the suspension of such officer he shall not be capable of acting in his office except by the written permission of the Mayor or Police Magistrate who suspended him, nor during such suspension shall he be entitled to any salary or remuneration. 36 V. c. 48, s. 347.

Salary to cease.

#### DIVISION IX.—COURT-HOUSES, GAOLS AND OTHER PLACES OF IMPRISONMENT.

*Erection and care of.* Secs. 429-448.

*Who to be confined in.* Secs. 438, 439, 449, 451, 29-30 V. c. 51, ss. 409, 414 & 415.

*Expense of prisoners.* Sec. 450.

**429.** Every County Council may pass by-laws for erecting, improving and repairing a Court-House, Gaol, House of Correction, and House of Industry, upon land being the property of the Municipality, and shall preserve and keep the same in repair, and provide the food, fuel and other supplies required for the same. 36 V. c. 48, s. 348.

County council may pass by-laws as to county buildings.

**430.** The Gaol, Court-House and House of Correction of the County in which a Town or City, not separated for all purposes from a County, is situate, shall also be the Gaol, Court-House, and House of Correction of the Town or City, and shall, in the case of such City, continue to be so until the Council of the City otherwise directs; and the Sheriff, Gaoler and Keeper of the Gaol and House of Correction shall receive and safely keep, until duly discharged, all persons committed thereto by any competent authority of the Town or City. 36 V. c. 48, s. 349.

Gaols and court-houses in counties and cities, etc., not separated.

**431.** The Council of any City may erect preserve, improve and provide for the proper keeping of a Court-House, Gaol, House of Correction and House of Industry upon lands being the property of the Municipality, and may pass by-laws for all or any of such purposes. 36 V. c. 48, s. 350.

City councils may erect, &c., certain public buildings.

**432.** The Council of every County may establish and maintain a Lock-up House or Lock-up Houses within the County, and may establish and provide for the salary or fees to be paid to the Constable to be placed in charge of every such Lock-up House, and may direct the payment of the salary out of the funds of the County. 36 V. c. 48, s. 351.

Lock-up-houses may be established by county council.

**433.** Every Lock-up House shall be placed in the charge of a constable specially appointed for that purpose by the Magistrates of the County at a General Sessions of the Peace therefor. 36 V. c. 48, s. 352.

A constable to be placed in charge.

**434.** The Council of every City, Township, Town, and Incorporated Village may, by by-law, establish, maintain and regulate Lock-up Houses for the detention and imprisonment of persons sentenced to imprisonment for not more than ten days under any by-law of the Council; and of persons detained for examination on a charge of having committed any offence; and of persons detained for transimission to any Common Gaol or House of Correction, either for trial or in the execution of any sentence; and such Councils shall have all the powers and authorities conferred on County Councils in relation to Lock-up Houses. 36 V. c. 48, s. 353.

Lock-up houses.

**435.** Two or more Municipalities may unite to establish and maintain a Lock-up House. 36 V. c. 48, s. 354.

Joint lock-up houses.

Land may be acquired for industrial farms, house of industry, refuge, etc.

**436.** The Council of every County, City or Town separated from a County may acquire an estate in landed property for an Industrial Farm, and may establish a House of Industry and a House of Refuge, and provide by by-law for the erection and repair thereof, and for the appointment, payment and duties of Inspectors, Keepers, Matrons and other servants for the superintendence, care and management of such Houses of Industry or Refuge, and in like manner make rules and regulations (not repugnant to law) for the government of the same:

Proviso as to united or contiguous counties.

2. Any two or more United Counties, or any two or more contiguous Counties, or any City and one or more Counties, or any Town or one or more Counties, may agree to have only one House of Industry or Refuge for such united or contiguous Counties, or City and Counties, or Town and Counties, and maintain and keep up the same in the manner herein provided. 36 V. c. 48, s. 355.

Inspectors to keep and render accounts of expenses, etc.

**437.** The Inspector of a House of Industry or Refuge appointed as aforesaid, shall keep an account of the charges of erecting, keeping, upholding and maintaining the House of Industry or Refuge, and of all materials found and furnished therefor, together with the names of the persons received into the house, as well as of those discharged therefrom, and also of the earnings; and such account shall be rendered to the County Council every year, or oftener when required by a by-law of the Council; and a copy thereof shall be presented to the Legislature. 36 V. c. 48, s. 356.

By-laws may be passed establishing workhouses and houses of correction.

**438.** The Council of every City and Town may respectively pass by-laws:

1. For erecting and establishing within the City or Town, or on such Industrial Farm, or on any ground held by the corporation for public exhibitions, a Workhouse or House of Correction, and for regulating the government thereof;

Who liable to be committed thereto.

2. For committing and sending, with or without hard labour, to the Workhouse or House of Correction, or to the Industrial Farm, by the Mayor, Police Magistrate, or any Justice of the Peace, while having jurisdiction in the City or Town respectively, such description of persons as may by the Council be deemed, and by by-law be declared expedient; and such farm or ground held as aforesaid shall, for the purposes in this subsection mentioned, be deemed to be within the City or Town and the jurisdiction thereof. 36 V. c. 48, s. 357.

Until houses of correction be erected, the common gaols in each respective county are constituted

**439.** Until separate Houses of Correction are erected in the several Counties in Ontario, the Common Gaol in each County respectively shall be a House of Correction; and every idle and disorderly person, or rogue and vagabond, and incorrigible rogue, and any other person by law subject to be committed to



a House of Correction, shall, unless otherwise provided by law, be committed to the said Common Gaols respectively. C. S. U. C. c. 127, s. 11. houses of correction.

**440.** The Sheriff shall have the care of the County Gaol, gaol offices and yard, and gaoler's apartments, and the appointment of the keepers thereof, whose salaries shall be fixed by the County Council, subject to the revision or requirement of the Inspector of Prisons and Public Charities. 36 V. c. 48, s. 358. Custody of gaols. Keepers.

**441.** The salary of the gaoler shall be in lieu of all fees, perquisites or impositions of any sort or kind whatever; and no gaoler or officer belonging to the Gaol shall demand or receive any fee, perquisite or other payment from any prisoner confined within the Gaol or prison. C. S. U. C. c. 127, s. 5. Gaoler to have a yearly salary in place of all fees, perquisites or impositions whatever.

**442.** The County Council shall have the care of the Court-House and of all offices and rooms and grounds connected therewith, whether the same forms a separate building or is connected with the Gaol, and shall have the appointment of the keepers thereof, whose duty it shall be to attend to the proper lighting, heating and cleaning thereof; and shall from time to time provide all necessary and proper accommodation, fuel, light and furniture for the Courts of Justice other than the Division Courts, and for all officers connected with such Courts. 36 V. c. 48, s. 359. County council to have care of court-house, etc.

**443.** In any City not being a separate County for all purposes, but having a Gaol or Court-House separate from the County Gaol or Court-House, the care of such City Gaol or Court-House shall be regulated by the by-laws of the City Council. 36 V. c. 48, s. 360. City gaols to be regulated by by-laws of city council.

**444.** In case of a separation of a Union of Counties, all rules and regulations, and all matters and things in any statute for the regulation of, or relating to Court-Houses or Gaols in force at the time of the separation, shall extend to the Court-House and Gaol of the Junior County. 36 V. c. 48, s. 361. Upon separation of union of counties, gaol and court-house regulations to continue.

**445.** Cities and Towns separated from Counties shall, as parts of their respective Counties for judicial purposes, bear and pay their just share or proportion of all charges and expenses from time to time as the same may be incurred of erecting, building and repairing and maintaining the Court-House and Gaol of their respective Counties, and of the proper lighting, cleansing and heating thereof, and of providing all necessary and proper accommodation, fuel, light, and furniture for the Gaol and Courts of Justice, other than the Division Courts, and for all officers connected with such Courts; and in case the Council of the City or Town separate as aforesaid, and the Council of the County in which such City or Town is situate for judicial purposes cannot by agreement from time to time settle and determine the Liability of cities and towns separated from counties for erection and maintenance of court-house. Reference to arbitration in case of disagreement.

amount to be so payable by such City or Town respectively, then the same shall be determined by arbitration, according to the provisions of this Act. 39 V. c. 34, s. 1.

Compensation by city or town for use of court-house, etc.

**446.** While a City or Town uses the Court-House, Gaol or House of Correction of the County, the City or Town shall pay to the County such compensation therefor, and for the care and maintenance of prisoners, as may be mutually agreed upon, or settled by arbitration under this Act. 36 V. c. 48, s. 364.

When the amount of compensation may be reconsidered.

**447.** In case after the lapse of five years from such compensation having been so agreed upon or awarded, or having been settled by statute, and whether before or after the passing of this Act, it appears reasonable to the Lieutenant-Governor in Council, upon the application of either party, that the amount of the compensation should be reconsidered, he may, by an Order in Council, direct that the then existing arrangement shall cease after a time named in the order, and after such time the Councils shall settle anew, by agreement or by arbitration under this Act, the amount to be paid from the time so named in the order. 36 V. c. 48, s. 365.

Existing lock-up houses to continue.

**448.** Nothing herein contained shall affect any Lock-up House heretofore lawfully established, but the same shall continue to be a Lock-up House as if established under this Act. 36 V. c. 48, s. 366.

This Act not to affect 29-30 V. c. 51, s. 409.

**449.** Nothing herein contained shall be taken or construed to affect or repeal section four hundred and nine of the Act passed in the Session of the Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of the reign of Her present Majesty, chaptered fifty-one. 36 V. c. 48, s. 367.

*[Section 409 of 29-30 V. c. 51, is as follows:—*

Justice may direct imprisonment in certain cases.

409. Any Justice of the Peace of the County may direct by warrant in writing under his hand and seal, the confinement in a Lock-up House within his County, for a period not exceeding two days, of any person charged on oath with a criminal offence, whom it may be necessary to detain until examined, and either dismissed or fully committed for trial to the Common Gaol, and until such person can be conveyed to such Gaol: also the confinement in such Lock-up House, not exceeding twenty-four hours, of any person found in a public street or highway in a state of intoxication, or any person convicted of desecrating the Sabbath, and generally may commit to a Lock-up House, instead of the Common Gaol or other House of Correction, any person convicted on view of the Justice, or summarily convicted before any Justice or Justices of the Peace of any offence cognizable by him or them, and liable to imprisonment therefor under any statute or municipal by-law.]

Expense of conveying and maintaining prisoners.

**450.** The expense of conveying any prisoner to, and of keeping him in a Lock-up House, shall be defrayed in the same manner as the expense of conveying him to and keeping him in the Common Gaol of the County. 36 V. c. 48, s. 368.

**451.** Nothing herein contained shall be taken or construed to affect or repeal sections four hundred and fourteen and four hundred and fifteen of the Act passed in the Session of the Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of the reign of Her present Majesty, and chaptered fifty-one. 36 V. c 48, s. 369.

This Act not to affect 29-30 V. c. 51, ss. 414, 415, which enact that

[Sections 414 and 415 of 29-30 V. c. 51, are as follows :—

414. Any two of Her Majesty's Justices of the Peace or of the Justices, etc., Inspectors appointed as aforesaid may, by writing under their hands and seals, commit to the House of Industry or of Refuge, to be employed and governed according to the rules, regulations, and orders of the House—

may commit persons who are

(1.) All poor and indigent persons who are incapable of supporting themselves ;

(2.) All persons without the means of maintaining themselves, and Idle. able of body to work, and who refuse or neglect so to do ;

(3.) All persons leading a lewd, dissolute or vagrant life, and exercising no ordinary calling or lawful business sufficient to gain or procure an honest living ;

Lewd.

(4.) And all such as spend their time and property in public-houses, to the neglect of any lawful calling ;

Frequenters of public-houses.

(5.) And idiots.

415. Every person committed to the House of Industry or of Refuge, if fit and able, shall be kept diligently employed at labour during his continuance there ; and in case any such person is idle and does not perform such reasonable task or labour as may be assigned, or is stubborn, disobedient or disorderly, such person shall be punished according to the rules and regulations of the House of Industry or of Refuge in that behalf.]

Punishment of refractory inmates.

#### DIVISION X.—INVESTIGATIONS AS TO MALFEASANCE OF CORPORATE OFFICERS.

**452.** In case the Council of any Municipality at any time passes a resolution requesting the Judge of the County Court of the County in which the Municipality is situate to investigate any matter to be mentioned in the resolution, and relating to a supposed malfeasance, breach of trust or other misconduct on the part of any member of the Council or officer of the corporation, or of any person having a contract therewith, in relation to the duties or obligations of the member, officer or other person, to the Municipality, or in case the Council of any Municipality sees fit to cause inquiry to be made into or concerning any matter connected with the good government of the Municipality, or the conduct of any part of the public business thereof, and if the Council at any time passes a resolution requesting the said Judge to make the inquiry, the Judge shall inquire into the same, and shall for that purpose have all the powers which may be conferred upon Commissioners under *The Act respecting Inquiries concerning Public Matters*, and the Judge

Investigation by county judge of charges of malfeasance by municipal officers.

Judge to have powers mentioned in Rev. Stat. c. 17.



shall, with all convenient speed, report to the Council the result of the inquiry and the evidence taken thereon. 36 V. c. 48, s. 370.

DIVISION XI.—WHEN MAYOR MAY CALL OUT *Posse Comitatus*.

Mayor may  
call out *posse  
comitatus*.

**453.** The Mayor of any City or Town may call out the *posse comitatus* to enforce the law within his Municipality, should exigencies require it, but only under the same circumstances in which the Sheriff of a County may now by law do so. 36 V. c. 48, s. 371.

## PART VII.

### POWERS OF MUNICIPAL COUNCILS.

TITLE I.—IN GENERAL.

TITLE II.—AS TO HIGHWAYS AND BRIDGES.

TITLE III.—AS TO WORKS PAID FOR BY LOCAL RATE.

TITLE IV.—AS TO RAILWAYS.

### TITLE I.—POWERS IN GENERAL.

DIV. I.—OF COUNTIES, TOWNSHIPS, CITIES, TOWNS AND INCORPORATED VILLAGES.

DIV. II.—OF COUNTIES, CITIES, TOWNS AND INCORPORATED VILLAGES.

DIV. III.—OF TOWNSHIPS, CITIES, TOWNS AND INCORPORATED VILLAGES.

DIV. IV.—OF COUNTIES, CITIES AND SEPARATED TOWNS.

DIV. V.—OF CITIES, TOWNS AND INCORPORATED VILLAGES.

DIV. VI.—OF CITIES AND TOWNS.

DIV. VII.—OF TOWNS AND INCORPORATED VILLAGES.

DIV. VIII.—OF COUNTIES ONLY.

DIV. IX.—OF TOWNSHIPS ONLY.

DIVISION I.—POWERS OF COUNCILS OF COUNTIES, TOWNSHIPS, CITIES, TOWNS AND INCORPORATED VILLAGES.

*Respecting the Obtaining of property.* Sec. 454 (1).

“ *Appointment of certain officers.* Sec. 454 (2, 3).

“ *Aid to Agricultural, &c., Societies.* Sec. 454 (4).

“ “ *Manufacturing Establishments.* Sec. 454 (5).

*Respecting Aid to Road Companies. Sec. 454 (6).*

“ “ *Indigent persons and charities. Sec. 454 (7).*

“ *Census. Sec. 454 (8).*

“ *Driving. Sec. 454 (9).*

“ *Drainage. Sec. 454 (10).*

“ *Mode of Egress from Buildings. Sec. 454 (11).*

“ *Fines and Penalties. Sec. 454 (12-14).*

“ *Purchase of Wet Lands. Sec. 454 (15).*

“ *Ornamental Trees. Sec. 454 (16).*

“ *Sale of Liquors. Sec. 454 (17).*

“ *Seizure of Bread of short weight. Sec. 454 (18).*

*Summary Remedy if By-laws not obeyed. Sec. 455.*

*Compensation for Lands taken. Sec. 456-459.*

**454.** The Council of every County, Township, City, Town and Councils may make by-laws. incorporated Village may pass by-laws :—

### *Obtaining Property.*

1. For obtaining such real and personal property as may For obtaining property, real and personal, etc. be required for the use of the Corporation, and for erecting, improving and maintaining a hall, and any other houses and buildings required by and being upon the land of the Corporation, and for disposing of such property when no longer required ; 36 V. c. 48, s. 372 (1).

### *Appointing certain Officers.*

2. For appointing such—

Pound-keepers,

Fence-viewers,

Overseers of Highways,

Road Surveyors,

Road Commissioners,

Valuators,

and such other officers as are necessary in the affairs of the corporation, or for carrying into effect the provisions of any Act of the Legislature, or for the removal of such officers ; but nothing in this Act shall prevent any member of a Corporation from acting as commissioner, superintendent or overseer, over any road or work undertaken and carried on, in part or in whole, at the expense of the Municipality ; and it shall be lawful for said Municipality to pay any such member of the Corporation acting as such commissioner, superintendent or overseer ; 36 V. c. 48, s. 372 (2). *See Rev. Stat. c. 188, s. 2 ; c. 192, s. 5.*

3. For regulating the remuneration, fees, charges and duties May fix fees and securities. of such officers, and the securities to be given for the performance of such duties ; 36 V. c. 48, s. 372 (3). *See s. 273 ante.*

*Aiding Agricultural and other Societies.*

May grant aid  
to agricultural  
societies.

4. For granting money or land in aid of the Agricultural and Arts Association of Ontario, or of any duly organized Agricultural or Horticultural Society in Ontario, or of any incorporated Mechanics' Institute within the Municipality, or within any adjoining Municipality; 36 V. c. 48, s. 372 (4); 40 V. c. 17, s. 113. (*See also Rev. Stat. c. 35, s. 113*).

*Aiding Manufacturing Establishments.*

May give aid  
by way of  
bonus to  
manufactures.

5. For granting aid by way of bonus for the promotion of manufactures within its limits, by granting such sum or sums of money to such person or body corporate, and in respect of such branch of industry as the said Municipality may determine upon; and to pay such sum, either in one sum or in annual or other periodical payments, with or without interest, and subject to such terms, conditions and restrictions as the said Municipality may deem expedient, and may take security therefor:

Assent of  
electors neces-  
sary.

(a) No such by-law shall be passed until the assent of the electors has been obtained, in conformity with the provisions of this Act in respect of by-laws for creating debts.

Security may  
be required.

(b) Any Municipality granting such aid, may take and receive of and from such person or body corporate that may receive any such aid, security for the compliance with the terms and conditions upon which such aid is given. 36 V. c. 48, s. 372 (5). [*And see section 349 as to exempting manufacturing establishments from taxation.*]

*Aiding Road Companies.*

Aid for roads,  
bridges and  
harbours.

6. For taking stock in or lending money, or granting bonuses to any incorporated company, in respect of any road, bridge or harbour, within or near the Municipality, under and subject to the respective statutes in that behalf, or for granting aid by way of bonus to any incorporated road or bridge company;

(a) No such by-law granting such aid by way of bonus shall be passed until the assent of the electors has been obtained in conformity with the provisions of this Act in respect of by-laws for creating debts. 37 V. c. 16, s. 14; 39 V. c. 34, s. 9.

*Aiding Indigent Persons and Charities.*

May aid indi-  
gent persons  
and charities.

7. For aiding in maintaining any indigent person belonging to or found in the Municipality at any Work-House, Hospital or institution for the insane, deaf and dumb, blind or other public institution of a like character; or for granting aid to any charitable institution or out-of-door relief to the resident poor; 36 V. c. 48, s. 372 (7). *See post*, s. 467 (11).



*Census.*

8. For taking a census of the inhabitants, or of the resident male freeholders and householders in the Municipality; 36 V. c. 48, s. 372 (8). Local census.

*Driving on Roads and Bridges.*

9. For regulating the driving and riding of horses and other cattle on highways and public bridges, and for preventing racing, immoderate or dangerous driving or riding thereon; 36 V. c. 48, s. 372 (9). To regulate driving on roads and bridges.

*Drainage.*

10. For opening, making, preserving, improving, repairing, widening, altering, diverting, stopping up and pulling down, drains, sewers or water-courses, within the jurisdiction of the Council, and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions in this Act contained; 36 V. c. 48, s. 372 (10). Opening or stopping up drains and water-courses etc.

*Egress from Buildings.*

11. For regulating the size and number of doors in churches, theatres and halls, or other buildings used for places of worship, public meetings, or places of amusement, and the street gates leading thereto, and also the size and structure of stairs and stair railing in all such buildings, and the strength of beams and joists, and their supports; 29-30 V. c. 22, s. 4. For regulating construction of churches, etc.

*Fines and Penalties.*

(See also secs 400-403, p. 1703.)

12. For inflicting reasonable fines and penalties not exceeding fifty dollars exclusive of costs,— Fines and penalties

(a) Upon any person for the non-performance of his duties who has been elected or appointed to any office in the Corporation, and who neglects or refuses to accept such office, unless good cause is shown therefor, or to take the declaration of office, and afterwards neglects the duties thereof; and for neglect of duty,

(b) For breach of any of the by-laws of the Corporation; 36 V. c. 48, s. 372 (11). or breach of by-laws.

13. For collecting such penalties and costs by distress and sale of the goods and chattels of the offender; 36 V. c. 48, s. 372 (12). Collecting penalties and costs.

Imprisonment  
when allowed,  
and time of.

14. For inflicting reasonable punishment, by imprisonment with or without hard labour, either in a Lock-up House in some Town or Village in the Township, or in the County Gaol or House of Correction, for any period not exceeding twenty-one days, for breach of any of the by-laws of the Council, in case of non-payment of the fine inflicted for any such breach, and there being no distress found out of which such fine can be levied : except for breach of any by-law or by-laws in Cities, and the suppression of houses of ill-fame, for which the imprisonment may be for any period not exceeding six months, in case of the non-payment of the costs and fines inflicted, and there being no sufficient distress as aforesaid ; 36 V. c. 48, s. 372 (13).

### *Purchasing Wet Lands.*

Purchase of  
wet lands from  
Government.

15. For purchasing from the Government or any Corporation or person, at a price (in case of Crown Lands, to be fixed by the Lieutenant-Governor in Council, and which price the Lieutenant-Governor in Council is hereby authorized to fix), all the wet lands at the disposal of the Crown or such Corporation or person in any such Township ; and such lands may be sold accordingly to the Corporation of any such Township ; 36 V. c. 48, s. 372 (15).

Raising money  
for purchasing  
and draining  
same.

(a) The purchase and draining of such lands shall be one of the purposes for which any such Corporation may raise money by loan or otherwise, or for which they may apply any of its funds not otherwise appropriated. 36 V. c. 48, s. 372 (16).

May hold or  
dispose of  
such land.

(b) The Corporation of any Township may possess and hold the land so purchased, and may, whenever they deem it expedient, sell or otherwise depart with or dispose of the same by public auction, in like manner as they may by law sell or dispose of other property, and upon such terms and conditions, and with such mortgages upon the land so sold, or other security for the purchase money or any portion thereof, as they may think most advantageous. 36 V. c. 48, s. 372 (17).

Proceeds of  
sale.

(c) The proceeds of the sale of such lands shall form part of the general funds of the Municipality. 36 V. c. 48, s. 372 (18).

### *Ornamental Trees.*

Regulations as  
to trees,  
shrubs, etc.,  
in public  
places.

16. For causing any tree, shrub or sapling, growing or planted on any public place, square, highway, street, lane, alley or other communication under its control, to be removed, if and when such removal is deemed necessary for any purpose of public improvement ; but no such tree, shrub or sapling shall be so removed until after one month's notice thereof is given to the owner of the adjoining property, and he is recompensed for his trouble in planting and protecting the same : nor shall such owner, or any pathmaster or other public

officer, or any other person, remove or cut down or injure such tree, shrub or sapling, on pretence of improving the public place, square, highway, street, road, lane, alley or other communication or otherwise, without the express permission of the Municipal Council having the control of the public place, square, highway, street, road, lane, alley or other communication; and any Council may expend money in planting and preserving shade and ornamental trees upon any public place square, highway, street, road, lane, alley or other communication within the Municipality, and may grant sums of money to any person or association of persons to be expended for the same purposes: 34 V. c. 31, ss. 3 & 5; 36 V. c. 48, s. 372 (19).

### *Temperance Laws.*

17. For prohibiting the sale of intoxicating liquors and the issue of licenses therefor, according to the provisions and limitations contained in "*The Temperance Act of 1864*," and "*The Temperance Act of Ontario*;" 36 V. c. 48, s. 372 (14).

Enforcing  
Temperance  
Acts.

27-28 V. c. 18.

Rev. Stat. c.  
182.

### *Seizing Bread, etc.*

18. For seizing and forfeiting bread or other articles when of light weight and short measurement. 37 V. c. 16, s. 16. *See* also *post* 466 (10) (12).

Light weight  
and short  
measure.

### SUMMARY REMEDY IF BY-LAWS NOT OBEYED.

**455.** Whenever any Municipal Council has any authority to direct, by by-law or otherwise, that any matter or thing should be done by any person or corporation, such Council may also, by the same or another by-law, direct that in default of its being done by the person, such matter or thing shall be done at the expense of the person in default, and may recover the expense thereof with costs by action or distress; and, in case of non-payment thereof, the same shall be recovered in like manner as municipal taxes. 36 V. c. 48, s. 377.

Mode of com-  
pelling per-  
formance of  
certain matters  
directed to be  
done by  
council, etc.

### COMPENSATION FOR LANDS TAKEN.

**456.** Every Council shall make to the owners or occupiers of, or other persons interested in, real property entered upon, taken or used by the Corporation in the exercise of any of its powers, or injuriously affected by the exercise of its powers, due compensation for any damages (including cost of fencing when required) necessarily resulting from the exercise of such powers, beyond any advantage which the claimant may derive from the contemplated work; and any claim for such compensation, if not mutually agreed upon, shall be determined by arbitration under this Act. 36 V. c. 48, s. 373.

Owners of  
lands taken by  
corporation,  
etc., to be  
compensated.

Differences to  
be determined  
by arbitration.



How title acquired to lands when owned by corporations, tenants in tail, vested in trustees, etc.

**457.** In the case of real property which a Council has authority under this Act to enter upon, take or use, without the owner's consent, corporations, tenants in tail or for life, guardians, committees and trustees, shall, on behalf of themselves, their successors and heirs respectively, and on behalf of those they represent, whether infants, issue unborn, lunatic, idiots, married women or others, have power to act, as well in reference to any arbitration, notice and action under this Act, as in contracting for and conveying to the Council any such real property, or in agreeing as to the amount of damages arising from the exercise by the Council of any power in respect thereof.

If there be no party who can convey, etc.

2. In case there is no such person who can so act in respect to such real property, or in case any person interested in respect to any such real property is absent from this Province, or is unknown, or in case his residence is unknown, or he himself cannot be found, the Judge of the County Court for the County in which such property is situate may, on the application of the Council, appoint a person to act in respect to the same for all or any of the said purposes. 36 V. c. 48, s. 374.

Application, etc., of purchase money where party has not an absolute estate in the property.

**458.** In case any person acting as aforesaid has not the absolute estate in the property, the Council shall pay to him the interest only at six per centum per annum on the amount to be paid in respect of such property, and shall retain the principal to be paid to the person entitled to it whenever he claims the same, and executes a valid acquittance therefor, unless the Court of Chancery, or other Court having equitable jurisdiction in such cases, in the meantime directs the Council to pay the same to any person or into Court; and the Council shall not be bound to see to the application of any interest so paid, or of any sum paid under the direction of such Court. 36 V. c. 48, s. 375.

Purchase money subject to charges on property.

**459.** All sums agreed upon, or awarded in respect of such real property, shall be subject to the limitations and charges to which the property was subject. 36 V. c. 48, s. 376.

## DIVISION II.—POWERS OF COUNCILS OF COUNTIES, CITIES, TOWNS, AND INCORPORATED VILLAGES.

### *Respecting Harbours, Docks, &c. Sec. 460.*

By-laws may be made for—

**460.** The Council of every County, City, Town and incorporated Village may pass by-laws for the following purposes:—

### *Harbours, Docks, &c.*

The cleanliness of

1. For regulating or preventing the encumbering, injuring or fouling, by animals, vehicles, vessels or other means, any of

public wharf, dock, slip, drain, sewer, shore, bay, harbour; river or water; 36 V. c. 48, s. 378 (1). wharves,  
docks, etc.

2. For directing the removal of door steps, porches, railings or other erections, or obstructions projecting into or over any wharf, dock, slip, drain, sewer, bay, harbour, river or water, or the banks or shores thereof, at the expense of the proprietor or occupant of the property connected with which such projections are found; 36 V. c. 48, s. 378 (2). The removal of  
door steps, etc.  
obstructing  
wharves, etc.

3. For making, opening, preserving, altering, improving and maintaining public wharves, docks, slips, shores, bays, harbours, rivers or waters and the banks thereof; 36 V. c. 48, s. 378 (3). The making,  
etc., of  
wharves,  
docks, etc.

4. For regulating harbours; for preventing the filling up or encumbering thereof; for erecting and maintaining the necessary beacons, and for erecting and renting wharves, piers and docks therein, and also floating elevators, derricks, cranes and other machinery suitable for loading, discharging or repairing vessels; for regulating the vessels, crafts and rafts arriving in any harbour; and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order, and to pay a harbour master. 36 V. c. 48, s. 378 (4). Regulating  
harbours, bea-  
cons, wharves,  
elevators, etc.  
  
Vessels etc.  
  
Harbour dues.

### DIVISION III.—POWERS OF COUNCILS OF TOWNSHIPS, CITIES TOWNS AND INCORPORATED VILLAGES.

- Respecting Polling Subdivisions. See. 461 (1.)*  
 “ *Disqualification of Electors. See. 461 (2.)*  
 “ *Billiard or Bagatell Tables. See. 461 (3.)*  
 “ *Victualling Houses. See. 461 (4, 5.)*  
 “ *Schools. See. 461 (6.)*  
 “ *Cemeteries. See. 461 (7, 8.)*  
 “ *Cruelty to Animals. See. 461 (9.)*  
 “ *Dogs. See. 461 (10, 11.)*  
 “ *Fenees. See. 461 (12.)*  
 “ *Division Fenees. See. 461 (13.)*  
 “ *Watercourses. See. 461 (14.)*  
 “ *Weeds. See. 461 (15.)*  
 “ *Filth in Streets. See. 461 (16.)*  
 “ *Burning Stumps, Brush, &c. See. 461 (17.)*  
 “ *Exhibitions, Shows, &c. See. 461 (18.)*  
 “ *Graves. See. 461 (19.)*  
 “ *Shade Trees. See. 461 (20.)*  
 “ *Injury to property and notices. See. 461 (21, 22.)*  
 “ *Gas and Water Companies. See. 461 (23, 24.)*  
 “ *Public Morals. See. 461 (25-34.)*

*Respecting the Establishment of Boundaries.* Sec. 461 (35),  
 " *Pounds.* Sec. 463. [462.  
 " *Public Health.* Sec. 464.  
 " *Lock-up Houses.* Sec. 434.  
 " *Tavern and Shop Licenses.* *Rev. Stat.* c. 181.

By-laws may be made for— **461.** The Council of every Township, City, Town or incorporated Village may pass by-laws:—

*Polling Subdivisions.*

Dividing city or town into wards, etc.

And townships and villages into polling subdivisions, etc.

1. For dividing the Wards of such City or Town, or for dividing such Township or Village into two or more convenient polling subdivisions, and for establishing polling places therein, and for repealing or varying the same from time to time; and such polling subdivisions shall be made or varied whenever the electors in any Ward, Township, Village or polling subdivision exceed two hundred, and shall be made and varied in such a manner that the number of electors in any polling subdivision shall not exceed at any time two hundred; 36 V. c. 48, s. 379 (1).

Polling subdivisions to be the same for elections to Legislative Assembly and municipal elections.

Council of city, town or incorporated village may unite adjoining subdivisions.

(a) Where a Municipality is divided into polling subdivisions, the same polling subdivisions shall be used both for the election of members of the Legislative Assembly and for municipal elections; and the polling subdivisions for elections to the Legislative Assembly and municipal elections shall hereafter be made the same in all cases, except that the Municipal Council of every City, Town or incorporated Village, may by by-law unite, for the purposes of municipal elections, any two adjoining polling subdivisions. 40 V. 12, ss. 2 & 3.

*Disqualification of Electors not paying Taxes.*

Disqualifying electors in arrears for taxes.

2. For disqualifying any elector from voting at municipal elections who has not paid all municipal taxes due by him on or before the fourteenth day of December next preceding the election; 36 V. c. 48, s. 379 (2). *See also sec. 248.*

*Billiard or Bagatelle Tables.*

Licensing and regulating the use of billiard and bagatelle tables.

3. For licensing, regulating and governing all persons who, for hire or gain, directly or indirectly keep, or have in their possession, or on their premises, any billiard or bagatelle table or who keep or have a billiard or bagatelle table in a house or place of public entertainment or resort, whether such billiard or bagatelle table is used or not, and for fixing the sum to be paid for a license so to have or keep such billiard or bagatelle table, and the time such license shall be in force. 36 V. c. 48, s. 379 (3).

*Victualling Houses, &c.*

Victualling houses, etc.,

4. For limiting the number of and regulating victualling houses, ordinaries, and houses where fruit, oysters, clams, or



victuals are sold to be eaten therein, and all other places for number and reception, refreshment or entertainment of the public; 36 V. c. 48, s. 379 (4). regulation of.

5. For licensing the same when no other provision exists therefor, and for fixing the rates of such licenses not exceeding twenty dollars; 36 V. c. 48, s. 379 (5). License and fee for same.

#### *Schools.*

6. For obtaining such real property as may be required for the erection of Public School-Houses thereon, and for other public school purposes, and for the disposal thereof when no longer required; and for providing for the establishment and support of Public Schools according to law; 36 V. c. 48, s. 379 (6). Acquiring land for public schools, etc.

#### *Cemeteries.*

7. For accepting or purchasing land for public cemeteries, as well within as without the Municipality, but not within any City, Town or incorporated Village, and for laying out, improving and managing the same; but no land shall be accepted or purchased for such purpose except by a by-law declaring in express terms that the land is appropriated for a public cemetery, and for no other purpose; and thereupon such land, although without the Municipality, shall become part thereof, and shall cease to be a part of the Municipality to which it formerly belonged; and such by-law shall not be repealed; and the trustees of any burial ground may agree for the sale or transfer thereof to the Municipality which desires to acquire the same; and in cases where such grounds have not been used for burials, the Municipality may dispose thereof, and acquire other ground instead thereof; 36 V. c. 48, s. 379 (7). *See also Rev. Stat. c. 170.* Acquiring land for cemeteries, &c. Proviso.

8. For selling or leasing portions of such land for the purpose of interment, in family vaults or otherwise, and for declaring in the conveyance the terms on which such portion shall be held; 36 V. c. 48, s. 379 (8). Selling portion of such land for certain purposes

#### *Cruelty to Animals.*

9. For preventing cruelty to animals; and for preventing the destruction of birds; the by-laws for these purposes not being inconsistent with any statute in that behalf; 36 V. c. 48, s. 379 (9). Preventing cruelty to animals, and destruction of birds.

#### *Dogs.*

10. For restraining and regulating the running at large of dogs, and for imposing a tax on the owners, possessors or harbourers of dogs; 36 V. c. 48, s. 379 (10). Regulations as to dogs.

Killing dogs.

11. For killing dogs running at large contrary to the by-laws; 36 V. c. 48, s. 379 (11).

*Fences.*

Fences.

12. For settling the height and description of lawful fences; and for regulating and settling the height, description and manner of maintaining, keeping up and laying down fences along highways or any part or parts thereof, and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down such last mentioned fences or any part thereof; 36 V. c. 48, s. 379 (12); 39 V. c. 34, s. 2.

*Division Fences.*

Division  
fences, and  
cost thereof.

Provision until  
by-laws made.  
Rev. Stat. cc.  
198, 199.

13. For regulating the height, extent and description of lawful division fences; and for determining how the cost thereof shall be apportioned; and for directing that any amount so apportioned shall be recovered in the same manner as penalties not otherwise provided for may be recovered under this Act: but until such by-laws are made, the Acts respecting Line Fences and Ditching Water Courses shall continue applicable to the Municipality; 36 V. c. 48, s. 379 (13).

*Water Courses.*

Water courses.

14. For compelling the owners of lands through which any open drain or water course passes to erect and keep up water gates where fences cross such drain or water course, and for preventing persons obstructing any drain or water course: 36 V. c. 58, s. 379 (14).

*Weeds.*

Prevention of  
growth of  
thistles and  
weeds.

15. For preventing the growth of Canada thistles and other weeds detrimental to husbandry, and compelling the destruction thereof; for the appointment of an inspector with power to enforce the provisions of such by-law; for regulating his duties, and determining the amount of remuneration, fees or charges he is to receive for the performance of such duties; 37 V. c. 16, s. 15. *See also Rev. Stat. c. 188.*

*Filth in Streets.*

Preventing  
throwing of  
dirt, etc., in  
streets etc.

16. For preventing persons from throwing any dirt, filth, carcasses of animals, or rubbish, on any street, road, lane, or highway; 36 V. c. 48, s. 379 (16).

*Burning Stumps, Brush, &c.*

Regulating the  
burning of  
stumps, trees,  
brush, etc.

17. For regulating the times during which stumps, wood, logs, trees, brush, straw, shavings or refuse, may be set on fire or burned in the open air, and for prescribing precautions to be

observed during such times, and for preventing such fires being kindled at other times; 36 V. c. 48, s. 379 (17).

*Exhibitions, Shows, &c.*

18. For preventing or regulating and licensing exhibitions of wax work, menageries, circus-riding, and other such like shows usually exhibited by showmen; and for requiring the payment of license fees for authorizing the same, not exceeding one hundred dollars for every such license; and for imposing fines on such persons infringing such by-laws; and for levying the same by distress and sale of the goods and chattels of such showman, or belonging to or used in such exhibition, whether owned by such showman or not, or for the imprisonment of such offenders for any term not exceeding one month;

Regulating  
public shows,  
and licensing  
same.

Fines for in-  
fraction.

(a.) It shall not be lawful for the Council of any Municipal Corporation, or the Commissioners of Police in any City, to grant licenses or license certificates to persons having exhibitions of any work or circus-riding, or other shows of a like character, or places of gambling, or to those engaged in traffic in fruits, goods, wares or merchandise of whatever description, for gain, on the days of the Exhibition of the Agricultural Association of Ontario, or of any Electoral District or Township Agricultural Society, either on the grounds of such Society, or within the distance of three hundred yards from such grounds; 36 V. c. 48, s. 379 (18).

Licenses not  
to be granted  
for certain  
times and  
places.

*Graves.*

19. For preventing the violation of cemeteries, graves, tombs, tombstones, or vaults where the dead are interred; 36 V. c. 48, s. 379 (19).

Protecting  
graves.

*Shade Trees.*

20. For allowing to any person who plants any fruit trees, or any trees, shrubs or saplings, suitable for affording shade on any highway within the Municipality, in abatement of statute labour or out of the general fund, a sum of not less than twenty-five cents for every tree so planted; 36 V. c. 48, s. 379 (20). See also *Rev. Stat. c. 187*.

Encouraging  
planting of  
certain trees,  
etc.

*Injuries to Property and Notices.*

21. For preventing the injuring or destroying of trees or shrubs planted or preserved for shade or ornament; and the defacing of private or other property by printed or other notices; 36 V. c. 48, s. 379 (21).

Ornamental  
trees.

22. For preventing the pulling down or defacing of sign-boards, and of printed or written notices lawfully affixed; 36 V. c. 48, s. 379 (22).

Signs



*Gas and Water Companies.*

- Authorizing gas and water companies to lay down pipes, etc. 23. For authorizing any corporate Gas or Water Company to lay down pipes or conduits for the conveyance of water or gas under streets or public squares, subject to such regulations as the Council sees fit ; 36 V. c. 48, s. 379 (23).
- Taking stock in gas and water companies. 24. For acquiring stock in, or lending money to, any such Company ; and for guaranteeing the payment of money borrowed by, or of debentures issued for money so borrowed by the Company : provided the by-law is consented to by the electors, as hereinbefore provided. In such case the head of any Corporation holding stock in any such Company to the amount of ten thousand dollars shall be *ex officio* a Director of the Company in addition to the other Directors thereof, and shall also be entitled to vote on such stock at any election of Directors. 36 V. c. 48, s. 379 (24).
- Proviso. Head of corporation to be a director in certain cases.

*Public Morals.*

- Sale of intoxicating drink to children, etc. 25. For preventing the sale or gift of intoxicating drink to a child, apprentice or servant, without the consent of a parent, master or legal protector ; 36 V. c. 48, s. 379 (31).
- Indecent placards, etc. 26. For preventing the posting of indecent placards, writings or pictures, or the writing of indecent words, or the making of indecent pictures or drawings, on walls or fences in streets or public places ; 36 V. c. 48, s. 379 (32).
- Vice, drunkenness, etc. 27. For preventing vice, drunkenness, profane swearing, obscene, blasphemous or grossly insulting language, and other immorality and indecency ; 36 V. c. 48, s. 379 (33).
- Lewdness. 28. For suppressing disorderly houses and houses of ill-fame ; 36 V. c. 48, s. 379 (34).
- Exhibitions, etc. 29. For preventing or regulating and licensing exhibitions held or kept for hire or profit, bowling alleys and other places of amusement ; 36 V. c. 48, s. 379 (35).
- Gaming. 30. For suppressing gambling houses, and for seizing and destroying faro-banks, rouge et noir, roulette tables, and other devices for gambling found therein : 36 V. c. 48, s. 379 (36).
- Racing. 31. For preventing horse racing ; 36 V. c. 48, s. 379 (37).
- Vagrants. 32. For restraining and punishing vagrants, mendicants, and persons found drunk or disorderly in any street, highway or public place ; 36 V. c. 48, s. 379 (38).
- Indecent exposure. 33. For preventing indecent public exposure of the person and other indecent exhibitions ; 36 V. c. 48, s. 379 (39).

34. For preventing or regulating the bathing or washing Bathing.  
the person in any public water in or near the Municipality;  
36 V. c. 48, s. 379 (40).

*Establishing Boundaries.*

35. For procuring the necessary estimates, and making the Regulating  
proper application for ascertaining and establishing the bound- boundaries of  
ary lines of the Municipality, according to law, in case the municipalities  
same has not been done; and for erecting and providing for the  
preservation of the durable monuments required to be erected  
for evidencing the same. 36 V. c. 48, s. 379 (25).

**462.** In case the Council of any Township, City, Town or in- Placing land-  
corporated Village adopts a resolution on the application of one- marks and  
half of the resident landholders to be affected thereby, or upon monuments or  
its own motion, that it is expedient to place durable monuments marking bound-  
at the front or rear of any Concession or range or part thereof aries of conc-  
in the Municipality, or at the front or rear angles of the lots cessions, lots, &  
therein, the Council may apply to the Lieutenant-Governor, in etc.  
the manner provided for in the thirty-eighth to the forty-  
fifth sections of *The Act respecting Land Surveyors and the* Rev. Stat.  
*Survey of Lands*, praying him to cause a survey of such con- c. 146, ss.  
cession or range, or such part thereof, to be made, and such 38-45.  
monuments to be placed under the authority of the Com-  
missioner of Crown Lands.

2. The person or persons making the survey shall accordingly  
plant stones or other durable monuments at the front or at the  
rear of such concession or range, or such part thereof as afore-  
said, or at the front and rear angles of every lot therein (as  
the case may be), and the limits of each lot so ascertained and  
marked shall be the true limits thereof; and the costs of the Cost of survey  
survey shall be defrayed in the manner prescribed by the said  
statute. 36 V. c. 48, s. 380.

*Pounds, &c.*

**463.** The Council of every Township, City, Town and incor- Cruelty to  
porated Village, may also pass by-laws (not inconsistent with animals.  
the Statutes of Canada respecting Cruelty to Animals)—

1. For providing sufficient yards and enclosures for the Providing  
safe keeping of such animals as it may be the duty of the pounds.  
pound-keeper to impound;

2. For restraining and regulating the running at large or Animals run-  
trespassing of any animals, and providing for impounding ning at large  
them; and for causing them to be sold in case they are not  
claimed within a reasonable time, or in case the damages, fines  
and expenses are not paid according to law;

Appraising the damages. 3. For appraising the damages to be paid by the owners of animals impounded for trespassing contrary to the laws of Ontario or of the Municipality ;

Compensation with respect to impounding animals. 4. For determining the compensation to be allowed for services rendered, in carrying out the provisions of any Act, with respect to animals impounded or distrained and detained in the possession of the distrainer. 36 V. c. 48, s. 381. *See also Rev. Stat. c. 195.*

*Public Health.*

Members of council to be health officers. **464.** The members of every Township, City, Town and incorporated Village Council shall be Health Officers within their respective Municipalities, under *The Act respecting the Public Health*, and under any Act passed after this Act takes effect for the like purpose ; but any such Council may, by by-law, delegate the powers of its members as such Health Officers to a committee of their own number, or to such persons, either including or not including one or more of themselves, as the Council thinks best. 36 V. c. 48, s. 382.

Rev. Stat. c. 190.

May delegate powers.

[*For powers of Cities, Townships, Towns and Villages as to Lock-up Houses, see sec. 434 ; and as to Tavern and Shop Licences, see Rev. Stat. c. 181, ss. 17, 21, 24 & 32.*]

DIVISION IV.—POWERS OF COUNCILS OF COUNTIES, CITIES AND SEPARATED TOWNS.

*Respecting Engineers, Inspectors, Gaol Surgeons, &c. Sec. 465 (1).*

“ *Auctioneers. Sec. 465 (2).*

“ *Hawkers and Pedlars. Sec. 465 (3).*

“ *Ferries. Sec. 465 (4).*

“ *High Schools. Sec. 465 (5, 6).*

“ *Support of scholars at High Schools and University of Toronto. Sec. 465 (7, 8).*

“ *Endowment of Fellowships. Sec. 465 (9).*

“ *Public Fairs. Sec. 465 (10).*

“ *Houses of Refuge. Sec. 433.*

By-laws may be made for— **465.** The Council of any County, City and Town separated from the County for municipal purposes, may pass by-laws for the following purposes :

*Engineers—Inspectors—Gaol Surgeons, etc.*

Appointing engineers, inspectors, gaol surgeons, etc.

1. For appointing, in addition to other officers, one or more Engineers, and also one or more Inspectors of the House of Industry ; also one or more Surgeons of the Gaol and other institutions under the charge of the Municipality ; and for the removal of such officers. 36 V. c. 48, s. 383 (1).



*Auctioneers.*

2. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction; and for fixing the sum to be paid for every such license, and the time it shall be in force; 36 V. c. 48, s. 383 (2).

Auctioneers.

*Hawkers and Pedlars.*

3. For licensing, regulating and governing hawkers or petty chapmen, and other persons carrying on petty trades, who have not become permanent residents in the County, City or Town, or who go from place to place or to other men's houses, on foot, or with any animal bearing or drawing any goods, wares or merchandise for sale, or in or with any boat, vessel or other craft, or otherwise carrying goods, wares or merchandise for sale, and for fixing the sum to be paid for a license for exercising such calling within the County, City or Town, and the time the license shall be in force; and for providing the Clerk of the Municipality with licenses in this and the previous sub-section mentioned, for sale to parties applying for the same, under such regulations as may be prescribed in such by-law; 36 V. c. 48, s. 383 (3).

Licensing, etc.  
hawkers,  
pedlars, etc.*Ferries.*

4. For licensing and regulating ferries between any two places within the Municipality, under the provisions of *The Act respecting Ferries*, and establishing the rates of ferriage to be taken thereon; but no such law as to ferries shall have effect until assented to by the Lieutenant-Governor in Council;

Licensing, etc.  
with assent of  
Governor,  
ferries, etc.  
Rev. Stat. c.  
112, s. 13.

(a). Until the Council passes a by-law regulating such ferries, and in the cases of ferries not between two places in the same Municipality, the Lieutenant-Governor by Order in Council may from time to time regulate such ferries respectively, and establish the rates to be taken thereon, in accordance with the statutes in force relating to ferries; 36 V. c. 48, s. 383 (4).

Until by-law  
passed,  
Lieutenant-  
Governor to  
regulate.*Lands for High Schools.*

5. For obtaining in such part of the County, or of any City or Town separated within the County, as the wants of the people may most require, the real property requisite for erecting High School houses thereon, and for other High School purposes, and for preserving, improving and repairing such school houses, and for disposing of such property when no longer required; 36 V. c. 48, s. 383 (5).

Acquiring  
lands for  
High Schools,  
etc.*Aiding High Schools.*

6. For making provisions in aid of such High Schools as may be deemed expedient; 36 V. c. 48, s. 383 (6).

Aiding High  
Schools.

*Supporting Pupils at University and High Schools.*

Supporting certain High School pupils at University of Toronto and U. C. College, etc.

7. For making a permanent provision for defraying the expenses of the attendance at the University of Toronto, and at the Upper Canada College and Royal Grammar School in Toronto, of such of the pupils of the public High Schools of the County as are unable to incur the expense, but are desirous of, and in the opinion of the respective masters of such High Schools, possess competent attainments for competing for any scholarship, exhibition or other similar prize offered by such University or College; 36 V. c. 48, s. 383 (7). (*See also Rev. Stat. e. 205, s. 32 (4).*)

Similar provision for attendance at High Schools.

8. For making similar provision for the attendance at any High School, for like purposes, of pupils of Public Schools of the Municipality; 36 V. e. 48, s. 383 (8). (*See also Rev. Stat. c. 205, s. 32 (5).*)

*Endowing Fellowships.*

Endowing fellowships in University of Toronto and U. C. College.

9. For endowing such fellowships, scholarships or exhibitions, and other similar prizes, in the University of Toronto, and in the Upper Canada College and Royal Grammar School at Toronto, for competition among the pupils of the Public High Schools in the County, as the Council deem expedient for the encouragement of learning amongst the youth thereof; 36 V. c. 48, s. 383 (9). (*See also Rev. Stat. c. 205, s. 32 (6).*)

*Public Fairs.*

Authorizing the holding, etc., of public fairs, and regulating same.

10. For authorizing, on petition of at least fifty qualified electors of the Municipality, the holding of public fairs at one or more of the most public and convenient places not separated from the Municipality for municipal purposes;

(a.) The purpose for which such fairs may be held shall be restricted to the sale, barter and exchange of cattle, horses sheep, pigs and articles of agricultural production or requirement.

(b.) The by-law to authorize the establishment of any such fair shall establish rules and regulations for the government of the same, and appoint a person whose duty it shall be to have them carried out, and shall also fix the fees to be paid him by persons attending the said fair.

Public notice of by-law establishing same.

(c.) The Council authorizing the establishment of a public fair shall, immediately after the passing of a by-law for that purpose, give public notice of the same. 36 V. e. 48, s. 383 (10).

[*For powers of Counties, Cities and Towns as to Houses of Refuge, see sec. 436.*]

## DIVISION V.—POWERS OF COUNCILS OF CITIES, TOWNS AND INCORPORATED VILLAGES.

*Respecting Water. Sec. 466 (1.)*“ *Markets. Sec. 466 (2-13.)*“ *Tainted Meat. Sec. 466 (14.)*“ *Nuisances. Sec. 466 (15-19.)*“ *Enclosure of Vacant Lots. Sec. 466 (20.)*“ *Driving upon Sidewalks. Sec. 466 (21.)*“ *Importuning Travellers. Sec. 466 (22.)*“ *Public Health. Sec. 466 (23.)*“ *Interments. Sec. 466 (24, 25.)*“ *Gunpowder. Sec. 466 (26.)*“ *Prevention of Fires. Sec. 466 (27-40.)*“ *Removal of Snow, Ice, Dirt. Sec. 466 (41.)*“ *Obstruction of Roads and Streets. Sec. 466 (42, 43.)*“ *Numbering Houses and Lots. Sec. 466 (44, 45.)*“ *Naming Streets. Sec. 466 (46.)*“ *Cellars. Sec. 466 (47, 48.)*“ *Sewerage and Drainage. Sec. 466 (49-52.)*“ *Transient Traders. Sec. 466 (53.)*“ *User of Streets. Sec. 466 (54.)*

**466.** The Council of every City, Town and incorporated Village may pass by-laws for the following purposes: By-laws may be made for—

*Water.*

1. For establishing, protecting and regulating public wells, reservoirs and other conveniences for the supply of water, and for making reasonable charges for the use thereof, and for preventing the wasting and fouling of public water; 36 V. c. 48, s. 384 (1). Establishing, etc., public wells, reservoirs, etc.

*Markets, &c.*

2. For establishing markets; 36 V. c. 48, s. 384 (2). Establishing markets.

3. For regulating all markets established and to be established; the places, however, already established as markets in the Municipality, shall continue to be markets, and shall retain all the privileges thereof until otherwise directed by competent authority; and all market reservations or appropriations heretofore made in any such Municipality shall continue to be vested in the Corporation thereof; 36 V. c. 48, s. 384 (3). Regulating markets.  
Old markets continued.

4. For preventing or regulating the sale by retail in the public streets, or vacant lots adjacent thereto, of any meat, vegetables, grain, hay, fruit, beverages, small-ware and other articles offered for sale; 36 V. c. 48, s. 384 (4). Regulating vending in streets, etc.

5. For preventing or regulating the buying and selling of articles or animals exposed for sale or marketed; 36 V. c. 48, s. 384 (5). Regulating sales, etc.



Sale of grain,  
butchers' meat,  
farm produce,  
small ware,  
etc.

6. For regulating the place and manner of selling and weighing grain, meat, vegetables, fish, hay, straw, fodder, wood, lumber, shingles, farm produce of every description, small-ware and all other articles exposed for sale, and the fees to be paid therefor; and also for preventing criers and vendors of small ware from practising their calling in the market, public streets and vacant lots adjacent thereto; 36 V. c. 48, s. 384 (6).

Preventing  
forestalling,  
etc.

7. For preventing the forestalling, regrating or monopoly of market grains, wood, meats, fish, fruits, roots, vegetables, poultry and dairy products, eggs and all articles required for family use, and such as are usually sold in the market; 36 V. c. 48, s. 384 (7).

Regulating  
hucksters, etc.

8. For preventing and regulating the purchase of such things by hucksters, grocers, butchers or runners; 36 V. c. 48, s. 384 (8).

Measuring,  
etc., certain  
articles.

9. For regulating the mode of measuring or weighing (as the case may be) of lime, shingles, laths, cordwood, coal and other fuel; 36 V. c. 48, s. 384 (9).

Penalties for  
light weight,  
etc.

10. For imposing penalties for light weight or short count, or short measurement in anything marketed; 36 V. c. 48, s. 384 (10). *See ante*, s. 454 (18).

Regulating  
vehicles used  
in market  
vending.

11. For regulating all vehicles, vessels, and all other things in which anything is exposed for sale or marketed, and for imposing a reasonable duty thereon, and establishing the mode in which it shall be paid; 36 V. c. 48, s. 384 (11).

Assize of  
bread, etc.

12. For regulating the assize of bread, and preventing the use of deleterious materials in making bread; and for providing for the seizure and forfeiture of bread made contrary to the by-law; 36 V. c. 48, s. 384 (12). *See ante*, s. 454 (18).

Sa meat  
dis rained.

13. For selling, after six hours' notice, butchers' meat distrained for rent of market-stalls; 36 V. c. 48, s. 384 (13).

#### *Tainted Meat.*

Tainted pro-  
visions.

14. For seizing and destroying all tainted and unwholesome meat, poultry, fish, or other articles of food; 36 V. c. 48, s. 384 (14).

#### *Nuisances.*

Abatement of  
nuisances.

15. For preventing and abating public nuisances; 36 V. c. 48, s. 384 (15).

Privy vaults.

16. For preventing or regulating the construction of privy vaults; 36 V. c. 48, s. 384 (16).

17. For preventing or regulating the erection or continuance of slaughter houses, gas works, tanneries, distilleries or other manufactories or trades which may prove to be nuisances; 36 V. c. 48, s. 384 (17). Slaughter houses, etc.

18. For preventing the ringing of bells, blowing of horns, shouting and other unusual noises, in streets and public places; 36 V. c. 48, s. 384 (18). Preventing noises.

19. For preventing or regulating the firing of guns or other fire-arms; and the firing or setting off of fire balls, squibs, crackers or fire-works, and for preventing charivaries and other like disturbances of the peace; 36 V. c. 48, s. 384 (19). Firing of guns, etc.

#### *Vacant Lots.*

20. For causing vacant lots to be properly enclosed; 36 V. c. 48, s. 384 (20). Vacant lots.

#### *Driving upon Sidewalks.*

21. For preventing the leading, riding or driving of horses or cattle upon sidewalks or other places not proper therefor; 36 V. c. 48, s. 384 (21). Driving, etc., upon sidewalks.

#### *Importuning Travellers.*

22. For preventing persons in streets or public places from importuning others to travel in or employ any vessel or vehicle, or go to any tavern or boarding house, or for regulating persons so employed; 36 V. c. 48, s. 384 (22). Importuning travellers.

#### *Public Health.*

23. For providing for the health of the Municipality, and against the spreading of contagious or infectious diseases; 36 V. c. 48, s. 384 (23). Public health. See also *Rev. Stat.* c. 190.

#### *Interments.*

24. For regulating the interment of the dead, and for preventing the same taking place within the Municipality; 36 V. c. 48, s. 384 (24). Interments.

25. For directing the keeping and returning of bills of mortality; and for imposing penalties on persons guilty of default; 36 V. c. 48, s. 384 (25). Bills of mortality.

#### *Gunpowder.*

26. For regulating the keeping and transporting of gunpowder and other combustible or dangerous materials; for Gunpowder, are of.

regulating and providing for the support, by fees, of magazines for storing gunpowder belonging to private parties; for compelling persons to store therein; for acquiring land, as well within as without the Municipality, for the purpose of erecting powder magazines, and for selling and conveying such land when no longer required therefor; 36 V. c. 48, s. 384 (26).

*Preventing Fires.*

Fire companies, etc.

27. For appointing fire wardens, fire engineers and firemen, and promoting, establishing, and regulating fire companies, hook-and-ladder companies, and property-saving companies; 36 V. c. 48, s. 384 (27).

Medals and rewards to persons distinguishing themselves at fires. Aid to widows.

28. For providing medals or rewards for persons who distinguish themselves at fires; and for granting pecuniary aid, or otherwise assisting the widows and orphans of persons who are killed by accident at such fires; 36 V. c. 48, s. 384 (28).

Fire in stables, etc.

29. For preventing or regulating the use of fire or lights in stables, cabinet makers' shops, carpenters' shops, and combustible places; 36 V. c. 48, s. 384 (29).

Dangerous manufactories.

30. For preventing or regulating the carrying on of manufactories or trades dangerous in causing or promoting fire; 36 V. c. 48, s. 384 (30).

Chimneys, stoves, etc.

31. For preventing, and for removing or regulating the construction of any chimney, flue, fire-place, stove, oven, boiler, or other apparatus or thing which may be dangerous in causing or promoting fire; 36 V. c. 48, s. 384 (31).

Size and cleaning of chimneys, etc.

32. For regulating the construction of chimneys as to dimensions and otherwise, and for enforcing the proper cleaning of the same; 36 V. c. 48, s. 384 (32).

Ashes.

33. For regulating the mode of removal and safe keeping of ashes; 36 V. c. 48, s. 384 (33).

Party walls.

34. For regulating and enforcing the erection of party walls; 36 V. c. 48, s. 384 (34).

Scuttles, ladders, etc., to houses.

35. For compelling the owners and occupants of houses to have scuttles in the roof thereof, with approaches; or stairs or ladders leading to the roof; 36 V. c. 48, s. 384 (35).

Guarding buildings against fire.

36. For causing buildings and yards to be put in other respects into a safe condition to guard against fire or other dangerous risk or accident; 36 V. c. 48, s. 384 (36).

Fire buckets.

37. For requiring the inhabitants to provide so many fire buckets, in such manner and time as may be prescribed; and



for regulating the examination of them, and the use of them at fires; 36 V. c. 48, s. 384 (37).

38. For authorizing appointed officers to enter at all reasonable times upon any property subject to the regulations of the Council, in order to ascertain whether such regulations are obeyed, or to enforce or carry into effect the same; 36 V. c. 48, s. 384 (38). Inspection of premises.

39. For making regulations for suppressing fires, and for pulling down or demolishing adjacent houses or other erections, when necessary to prevent the spreading of fire; 36 V. c. 48, s. 384 (39). Preventing spreading of fire.

40. For regulating the conduct, and enforcing the assistance of the inhabitants present at fires, and for the preservation of property at fires; 36 V. c. 48, s. 384 (40). Enforcing assistance at fires.

*Removal of Snow, Ice, Dirt.*

41. For compelling persons to remove all snow and ice from the roofs of the premises owned or occupied by them; and to remove and clear away all snow, ice and dirt, and other obstructions, from the sidewalks, streets and alleys adjoining such premises; and also to provide for the cleaning of sidewalks and streets adjoining vacant property, the property of non-residents, and all other persons who, for twenty-four hours, neglect to clean the same; and to remove and clear away all snow and ice, and other obstructions, from such sidewalks and streets, at the expense of the owner or occupant in case of his default; and in case of non-payment, to charge such expenses as a special assessment against such premises, to be recovered in like manner as other municipal rates; 36 V. c. 48, s. 384 (41). Removal of snow, etc. Cleaning of sidewalks, streets, etc.

*Obstruction of Roads and Streets.*

42. For regulating or preventing the encumbering, injuring or fouling, by animals, vehicles, vessels or other means, of any road, street, square, alley, lane, bridge or other communication; 36 V. c. 48, s. 384 (42). Preventing obstruction and fouling of streets, etc.

43. For directing the removal of door-steps, porches, railings or other erections, or obstructions projecting into or over any road or other public communication, at the expense of the proprietor or occupant of the property connected with which such projections are found; 36 V. c. 48, s. 384 (43). Removal of door-steps, etc.

*Numbering Houses and Lots.*

44. For numbering the houses and lots along the streets of the Municipality, and for affixing the numbers to the houses, Numbering houses, etc.

buildings, or other erections along the streets, and for charging the owner or occupant of each house or lot with the expense incident to the numbering of the same ; 36 V. c. 48, s. 384 (44).

Record of streets, numbers, etc.

45. For keeping (and every such Council is hereby required to make and keep) a record of the streets, and numbers of the houses and lots numbered thereon respectively, and entering thereon, and every such Council is hereby required to enter thereon a division of the streets with boundaries and distances for public inspection ; 36 V. c. 48, s. 384 (45).

### *Naming Streets.*

For marking the boundaries of and naming streets, etc.

46. For surveying, settling, and marking the boundary lines of all streets, roads, and other public communications, and for giving names thereto, and affixing such names at the corners thereof, on either public or private property ; but no by-law for altering the name of any street, square, road, lane, or other public communication, shall have any force or effect, unless and until the by-law has been registered in the Registry office of the County or other Registration Division ; and the Registrar shall be entitled to a fee of one dollar, for every by-law so registered, and for the necessary entries and certificates in connection therewith ; 36 V. c. 48, s. 384 (46) ; 40 V. c. 7, *Sched. A* (180).

### *Levels of Cellars—Plans.*

Ascertaining levels of cellars, etc.

47. For ascertaining and compelling owners, tenants and occupants to furnish the Councils with the levels of the cellars heretofore dug or constructed, or which may hereafter be dug or constructed along the streets of the Municipality, such levels to be with reference to a line fixed by the by-laws ; 36 V. c. 48, s. 384 (47).

Compelling the furnishing of ground or block plan of buildings to be erected.

48. For compelling to be deposited with an officer, to be named in the by-law, before commencing the erection of any building, a ground or block plan of such building, with the levels of the cellars and basements thereof, with reference to a line fixed by the by-laws ; 36 V. c. 48, s. 384 (48).

### *Sewerage and Drainage.*

Cellars, sinks, etc.

49. For regulating the construction of cellars, sinks, water-closets, privies and privy vaults, and the manner of draining the same ; 36 V. c. 48, s. 384 (49).

Filling in hollow places. drains, etc.

50. For compelling or regulating the filling up, draining, clearing, altering, relaying or repairing of any grounds, yards, vacant lots, cellars, private drains, sinks, cesspools and privies ; and for assessing the owners or occupiers of such grounds or yards, or of the real estate on which the cellars, private drains,

sinks, cesspools and privies are situate, with the cost thereof, if done by the Council on their default; 36 V. c. 48, s. 384 (50).

51. For making any other regulations for sewerage or drainage that may be deemed necessary for sanitary purposes; 36 V. c. 48, s. 384 (51). Sewerage and drainage.

52. For charging all persons who own or occupy property which is drained into a common sewer, or which by any by-law of the Council is required to be drained into such sewer, with a reasonable rent for the use of the same; and for regulating the time or times and manner in which the same is to be paid; 36 V. c. 48, s. 384 (52). Charging rent for sewers.

### *Licensing Transient Traders.*

53. For licensing, regulating and governing transient traders and other persons who occupy premises in the City or Town, or incorporated Village, for temporary periods, and whose names have not been duly entered on the assessment roll in respect of income or personal property for the then current year; 36 V. c. 48, s. 384 (53). Regulating transient traders.

### *User of Streets.*

54. For regulating the conveyance of traffic in the public streets, and the width of the tires and wheels of all vehicles used for the conveyance of articles of burden, goods, wares or merchandize. 36 V. c. 48, s. 384 (54). Regulating traffic in streets, wheels, etc.

## DIVISION VI.—POWERS OF COUNCILS OF CITIES AND TOWNS.

*Respecting Intelligence Officers.* Sec. 467 (1-5).

“ *Wooden Buildings.* Sec. 467 (6).

“ *Police.* Sec. 467 (7).

“ *Industrial Farms—Exhibitions.* Sec. 467 (8-10).

“ *Almshouses—Charities.* Sec. 467 (11).

“ *Corporation Surveyor.* Sec. 467 (12).

“ *Gas and Water.* Secs. 467 (13-16), 468-471.

**467.** The Council of every City and Town may pass by- By-laws for —  
laws—

### *Intelligence Offices.*

1. For licensing suitable persons to keep Intelligence Offices, for registering the names and residences of, and giving information to, or procuring servants for, employers in want of domestics or labourers, and for registering the names and resi- Licensing intelligence offices.



dences of, and giving information to, or procuring employment for, domestics, servants and other labourers desiring employment, and for fixing the fees to be received by the keepers of such offices; 36 V. c. 48, s. 385 (1).

Regulation of. 2. For the regulation of such Intelligence Offices; 36 V. c. 48, s. 385 (2).

Duration of license. 3. For limiting the duration of or revoking any such license; 36 V. c. 48, s. 385 (3).

Prohibition without license. 4. For prohibiting the opening or keeping of any such Intelligence Office within the Municipality without license; 36 V. c. 48, s. 385 (4).

Fees for. 5. For fixing the fee to be paid for such license, not exceeding ten dollars for one year; 36 V. c. 48, s. 385 (5).

### *Wooden Buildings.*

Regulating erection of wooden buildings and fences. 6. For regulating the erection of buildings, and preventing the erection of wooden buildings, or additions thereto, and wooden fences in specified parts of the City or Town; and also for prohibiting the erection or placing of buildings, other than with main walls of brick, iron or stone, and roofing of combustible material, within defined areas of the City or Town, and for authorizing the pulling down or removal, at the expense of the owner thereof, of any building or erection which may be constructed or placed in contravention of any by-law; 36 V. c. 48, s. 385 (6).

Construction of buildings within fire limits.

7. For authorizing the pulling down or removal, at the expense of the owner thereof, of any building or erection which may be constructed or placed in contravention of any by-law; 36 V. c. 48, s. 385 (6).

### *Police.*

Police. 7. For establishing, regulating and maintaining a police; but subject to the other provisions of this Act; 36 V. c. 48, s. 385 (7).

### *Industrial Farm—Exhibition.*

Industrial farms, parks, etc. 8. For acquiring any estate in landed property within or without the City or Town for an Industrial Farm, or for a public park, garden or walk, or for a place for Exhibitions, and for the disposal thereof when no longer required for the purpose; and for accepting and taking charge of landed property, within or without the City or Town, dedicated for a public park, garden or walk for the use of the inhabitants of the City or Town; 36 V. c. 48, s. 385 (8). See also sec. 556.

Buildings thereon.

9. For the erection thereon of buildings and fences for the purposes of the farm, park, garden, walk or place for Exhibitions as the Council deems necessary; 36 V. c. 48, s. 385 (9).

Managing the same.

10. For the management of the farm, park, garden, walk or place for Exhibitions and buildings; 36 V. c. 48, s. 385 (10).

*Almshouses—Charities.*

11. For establishing and regulating within the City or Town, Almshouses, or on the Industrial Farm or ground held for public exhibitions, etc. one or more Almshouses or Houses of Refuge for the relief of the destitute, and also for aiding charitable institutions within the City or Town; 36 V. c. 48, s. 385 (11). See sec. 454 (7), and as to Workhouses, sec. 438.

*Corporation Surveyor.*

12. For appointing any Provincial Land Surveyor to be the Corporation Corporation Surveyor; 36 V. c. 48, s. 385 (12). surveyor.

*Gas and Water.*

13. For lighting the Municipality, and for this purpose per- Lighting with forming any work, and placing any fixtures that are necessary gas. on private property; 36 V. c. 48, s. 385 (13).

14. For laying down gas or water pipes in any street, and Laying down opening streets for the purpose; and for taking up or repairing gas and water such pipes, and for using every power and privilege given to pipes. any Gas or Water Company incorporated in the Municipality as if the same were specially given by this Act, subject, however, to the provisions herein contained as to the erection of gas or water-works and levying rates therefor; 36 V. c. 48, s. 385 (14).

15. For providing for the appointment of three Commis- Commis- sioners for entering into contracts for the construction of gas sioners for and water works; for superintending the construction of the erection of same; for managing the works when completed; and for pro- gas or water viding for the election of the said Commissioners by the electors works. from time to time, and at such periods and for such terms as the Council may appoint by the by-law authorizing the election; 36 V. c. 48, s. 385 (16).

16. For constructing gas and water works, and for levying Construction an annual special rate to defray the yearly interest of the of gas and expenditure therefor, and to form an equal yearly sinking fund water works. for the payment of the principal within a time not exceeding thirty years, nor less than five years. 36 V. c. 48, s. 385 (17).

**468.** No by-law under the last sub-section of the preceding section shall be passed—

First:—Until estimates of the intended expenditure have been Estimate to be published for one month, and notice of the time appointed for published, and taking a poll of the electors on the proposed by-law has been notice of published for two months, and a copy of the proposed by-law taking poll on by-law.

at length as the same may be ultimately passed, and a notice of the day appointed for finally considering the same in Council, have been published for three months, in some newspaper in the Municipality ; or if no newspaper is published therein, then in some newspaper in the County in which the Municipality is situate ;

Poll to be held and majority must be in favour.

Nor, secondly :—Until at a poll held in the same manner and at the same places, and continued for the same time as at elections for Councillors, a majority of the electors, voting at the poll, vote in favour of the by-law ;

By-law to be passed within three months.

Nor, thirdly :—Unless the by-law is passed within three months after holding said poll. 36 V. c. 48, s. 386.

If by-law rejected.

**469.** If the proposed by-law is rejected at such poll, no other by-law for the same purpose shall be submitted to the electors during the current year. 36 V. c. 48, s. 387

Provisions where there is a gas or water company incorporated for the municipality.

**470.** In case there is any Gas or Water Company incorporated for the Municipality, the Council shall not levy any gas or water rate until such Council has by by-law fixed a price to offer for the works or stock of the Company ; nor until after thirty days have elapsed after notice of such price has been communicated to the Company without the Company's having accepted the same, or having, under the provisions of this Act as to arbitrators, named and given notice of an arbitrator to determine the price, nor until the price accepted or awarded has been paid, or has been secured to the satisfaction of the Company. 36 V. c. 48, s. 388.

Proviso as to provisions in special Acts.

**471.** The foregoing clauses or any of them shall not be construed to apply to or affect the provisions contained in any special Act obtained or to be obtained by any Company or Municipal Corporation. 36 V. c. 48, s. 389.

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#### DIVISION VII.—POWERS OF COUNCILS OF TOWNS AND INCORPORATED VILLAGES.

By-laws may be made for—

**472.** The Council of every Town and incorporated Village may pass by-laws :

##### *Licensing Vehicles, &c.*

Regulating and licensing livery stables, cabs, &c.

1. For regulating and licensing the owners of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles for hire ; for establishing the rates of fares to be taken by the owners or drivers, and for enforcing payment thereof. 36 V. c. 48, s. 391.



DIVISION VIII.—EXCLUSIVE POWERS OF COUNCILS OF  
COUNTIES.

*Respecting Protection of Booms. Sec. 473.*

“ *Board of Audit—Criminal Justice Accounts.*  
*Secs. 474, 475.*

“ *Livery Stables, &c. Sec. 476.*

“ *Horse Thieves. Sec. 477.*

“ *Improvements by single Counties of a Union.*  
*Secs. 478-482.*

**473.** The Council of every County may make by-laws :

By-laws may  
be made for—

*Protecting Booms.*

1. For protecting and regulating booms on any stream or river for the safe keeping of timber, saw-logs and staves within the Municipality. 36 V. c. 48, s. 392. Protecting  
booms.

*Board of Audit—Criminal Justice, &c.*

**474.** Every County Council shall appoint at its first meeting in each year two persons, not more than one of whom shall belong to such Council, to be members of the Board of Audit, for auditing and approving accounts and demands preferred against the County, the approving and auditing whereof previous to the nineteenth day of December, one thousand eight hundred and sixty-eight, belonged to the General Quarter Sessions. 36 V. c. 48, s. 393. County Boards  
of Audit.

**475.** The Council may pay the persons appointed by them to serve on the said Board of Audit, any sum not exceeding four dollars each per day for their attendance at such audit, and five cents for each mile necessarily travelled in respect thereof in going to and from such audit. 36 V. c. 48, s. 394 ; 40 V. c. 7, *Sched. A.* (182). Payment of  
members of  
Board.

*Livery Horses, &c.*

**476.** The Council of every County, having County gravel or macadamized roads within its jurisdiction, and under its immediate control, such roads being kept up and repaired by municipal taxation, and upon which no toll is collected, shall have power to pass a by-law or by-laws authorizing the regulating and licensing of the owners of livery stables, and of horses, cabs, carriages, omnibuses, and all other vehicles used or kept for hire ; and for issuing and regulating teamsters' licenses ; for regulating the width of tire used on such vehicles ; for establishing the rates of fare that may be collected or taken by the owners or drivers ; for enforcing the payment of such licenses, regulating rates of fares for the conveyance of goods or passen- Regulating  
and licensing  
livery stables,  
&c.  
  
Wheels.  
  
Rates of fare.

gers ; and for enforcing the width of tire that may be used on such vehicles, when travelling on the aforesaid County gravel or macadamized roads. 36 V. c. 48, s. 395.

*Horse Thieves.*

Reward for apprehension of persons guilty of horse-stealing.

**477.** The Council of every County shall provide by by-law, that a sum not less than twenty dollars shall be payable as a reward to any person or persons who shall pursue and apprehend, or cause to be apprehended, any person or persons guilty of stealing any horse or mare within the said County, and such reward shall be paid out of the funds of the Corporation on conviction of the thief, on the order of the Judge before whom the conviction is obtained. 36 V. c. 48, s. 396. See 29-30 V. c. 51, s. 355 (26).

[Subsection 27 of Section 355 of 29-30 V. c. 51, enacts as follows :—

Not to disqualify witness.

27. The said reward shall not disqualify the person claiming the same or entitled thereto, from being a witness.]

*Improvements by either County of a Union.*

Enabling either county of a union to make improvements therein.

**478.** The Councils of United Counties may make appropriations and raise funds to enable either County separately to carry on such improvements as may be required by the inhabitants thereof. 36 V. c. 48, s. 397.

Reeves, &c., of the county interested alone to vote.

Exception.

**479.** Whenever any such measure is brought under the notice of the Council of any United Counties, none but the Reeves and Deputy-Reeves of the County to be affected by the measure shall vote ; except in case of an equality of votes, when the Warden, whether a Reeve or Deputy Reeve of any portion of the County to be affected by the measure or not, shall have the casting vote. 36 V. c. 48, s. 398.

Provisions of this Act for repayment to apply.

**480.** In all other respects, all the provisions of this Act giving such privileges and making provision for the payment of the amounts appropriated, whether to be borrowed upon a loan or to be raised by direct taxation, shall be adhered to. 36 V. c. 48, s. 399.

Treasurer to pay over moneys without deduction.

**481.** The Treasurer of the United Counties shall pay over all sums so raised and paid into his hands by the several Collectors, without any deduction or percentage. 36 V. c. 48, s. 400.

The property to be assessed in such cases.

**482.** The property to be assessed for the purposes contemplated in the four last preceding sections of this Act, shall be the same as the property assessed for any other County purpose, except that any sum to be raised for the purposes of one County

only, or for the payment of any debt contracted for the purposes of one County only, shall be assessed and levied solely upon property assessed in that County, and not upon property in any other County united with it, and any debenture that may be issued for such purposes may be issued as the debenture of the said one County only, and shall be as valid and binding upon that County as if that County were a separate Municipality, but such debenture shall be under the seal of the United Counties, and be signed by the Warden thereof. 36 V. c. 48, s. 401.

### DIVISION IX.—EXCLUSIVE POWERS OF COUNCILS OF TOWNSHIPS.

*Respecting Statute Labour. Sec. 483 (1-5.)*

“ *Obstructions to Streams. Secs. 484, 485.*

**483.** The Council of every Township, may pass by-laws— By-laws may be made for—

#### *Statute Labour.*

1. For empowering any person (resident or non-resident) liable to statute labour within the Municipality, to compound for such labour, for any term not exceeding five years, at any sum not exceeding one dollar for each day's labour; 36 V. c. 48, s. 390 (1). Voluntary commutation of statute labour.

2. For providing that a sum of money, not exceeding one dollar for each day's labour, may or shall be paid in commutation of such statute labour; 36 V. c. 48, s. 390 (2). Compulsory commutation.

3. For increasing or reducing the number of days' labour, to which the persons rated on the assessment roll or otherwise shall be liable, in proportion to the statute labour to which such persons are liable in respect of the amounts at which they are assessed, or otherwise respectively; 36 V. c. 48, s. 390 (3). Fixing number of days' statute labour.

4. For enforcing the performance of statute labour, or payment of a commutation in money in lieu thereof, when not otherwise provided by law; 36 V. c. 48, s. 390 (4). Enforcing statute labour.

5. For regulating the manner and the divisions in which statute labour or commutation money shall be performed or expended. 36 V. c. 48, s. 390 (5). *See 40 V. c. 7, Sched. A (181).* Regulating performance, &c.

**484.** The Council of every Township may also pass by-laws: By-laws may be made for—



*Obstructions to Streams and Water-courses.*

- Preventing obstruction of streams, etc.      1. For preventing the obstruction of streams, creeks and water-courses, by trees, brushwood, timber, or other materials, and for clearing away and removing such obstructions at the expense of the offenders or otherwise ;
- Levying expenses.      2. For levying the amount of such expense in the same manner as taxes are levied ;
- Penalties.      3. For imposing penalties on parties causing such obstructions. 36 V. c. 48, s. 402.

When stream in any township cleared of obstructions, notice may be served on council of adjoining municipality through which stream runs, requiring them to remove obstructions within their municipality.

**485.** Whenever any stream or creek in any Township is cleared of all logs, brush or other obstructions to the Town line between such Township and any adjoining Township into which such stream or creek flows, the Council of the Township in which the creek or stream has been cleared of obstruction may serve a notice in writing on the head of the Council of the adjoining Township into which the stream or creek flows, requesting such Council to clear such stream or creek through their Municipality ; and it shall be the duty of such last-named Council, within six months after the service of the notice as aforesaid, to enforce the removal of all obstructions in such creek or stream within their Municipality, to the satisfaction of any person whom the Council of the County in which the Municipality whose Council served the notice is situate, shall appoint to inspect the same. 36 V. c. 48, s. 403.

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## TITLE II.—POWERS AND DUTIES OF COUNCILS AS TO HIGHWAYS AND BRIDGES.

DIV. I.—GENERAL PROVISIONS.

DIV. II.—COUNTIES, TOWNSHIPS, CITIES, TOWNS AND VILLAGES.

DIV. III.—TOWNSHIPS, CITIES, TOWNS AND VILLAGES.

DIV. IV.—COUNTY COUNCILS.

DIV. V.—TOWNSHIP COUNCILS.

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### DIVISION I.—GENERAL PROVISIONS.

*Highways defined.* Sec. 486.

*Freehold in Crown.* Sec. 487.

*Jurisdiction of Councils.* Sec. 488.

*Possession in Municipalities.* Sec. 489, 490.

*Liability for Repairs.* Sec. 491.

*County Roads and Bridges defined.* Secs. 492, 493.

*Improving and Maintaining County Roads.* Secs. 494, 495.

*Maintaining Township Roads.* Secs. 496, 497.

*Roads under joint jurisdiction.* Secs. 498-500.

*Transfer of former powers of Justices in Sessions to County Councils.* Sec. 501.

*Roads vested in Her Majesty not affected.* Sec. 502.

*Roads on Dominion Lands not affected.* Sec. 503.

*Roads necessary for egress.* Sec. 504.

*Width of Roads.* Sec. 505.

*Notices of By-laws affecting Public Roads.* Sec. 506.

*Registration of Road By-laws.* Sec. 507.

*Disputes respecting Roads—Administration of oaths.* Sec. 508.

### *Highways Defined.*

**486.** All allowances made for roads by the Crown Surveyors in any Town, Township or place already laid out, or hereafter laid out; and also all roads laid out by virtue of any statute, or any roads whereon the public money has been expended for opening the same, or whereon the statute labour has been usually performed, or any roads passing through the Indian lands, shall be deemed common and public highways, unless where such roads have been already altered, or may hereafter be altered according to law. 36 V. c. 48, s. 404. *See Rev. Stat. c. 146, ss. 49, 50 & 67.*

What shall constitute public highways.

### *Freehold in the Crown.*

**487.** Unless otherwise provided for, the soil and freehold of every highway or road altered, amended or laid out, according to law, shall be vested in Her Majesty, Her Heirs and Successors. 36 V. c. 48, s. 405.

Certain highways, &c. vested in the Crown.

### *Jurisdiction of Municipal Councils.*

**488.** Subject to the exceptions and provisions hereinafter contained, every Municipal Council shall have jurisdiction over the original allowances for roads and highways and bridges within the Municipality. 36 V. c. 48, s. 406.

Jurisdiction of councils over roads, &c.

### *Possession in Municipality.*

**489.** Every public road, street, bridge or other highway, in a City, Township, Town or incorporated Village, shall be vested in the Municipality, subject to any rights in the soil which the individuals who laid out such road, street, bridge or highway reserved, and except any concession or other road within the City, Township or Town or incorporated Village, taken and held possession of by an individual in lieu of a street, road or highway laid out by him without compensation therefor. 36 V. c. 48, s. 407.

Streets in cities, towns and incorporated villages vested in municipalities subject to certain rights.

**490.** The Council of every City and Town may respectively pass by-laws for acquiring and assuming possession of and control over any public highway or road in an adjacent Municipality by and with the consent of such Municipality, the same being signified by a by-law passed for that purpose, for a public avenue or walk; and to acquire from the owners of the land adjacent to such highway or road, such land as may be required on either side of such highway or road to increase the width thereof to the extent of one hundred feet or less, subject to the provisions of section number four hundred and fifty-six of this Act. 36 V. c. 48, s. 408.

*Liability for Repairs.*

Repairing of  
public roads,  
&c.

Limitation of  
actions.

**491.** Every public road, street, bridge and highway shall be kept in repair by the Corporation, and on default of the corporation so to keep in repair, the Corporation shall, besides being subject to any punishment provided by law, be civilly responsible for all damages sustained by any person by reason of such default, but the action must be brought within three months after the damages have been sustained:

To what roads  
applicable.

2. This section shall not apply to any road, street, bridge or highway laid out by any private person, and the corporation shall not be liable to keep in repair any such last-mentioned road, street, bridge or highway, until established by by-law of the Corporation, or otherwise assumed for public user by such Corporation. 36 V. c. 48, s. 409.

*[By sections 1 and 3 of C. S. C. c. 85, it is provided that:—*

Use of public  
roads in cities  
and towns  
vested in the  
municipality.

1. The right to use as public highway all roads, streets and public highways within the limits of any City or incorporated Town in this Province, shall be vested in the Municipal Corporation of such City or incorporated Town, (except in so far as the right of property or other right in the land occupied by such highways have been expressly reserved by some private party when first used as such roads, street or highway, and except as to any concession road or side road within the City or Town where the persons now in possession or those under whom they claim have laid out streets in such City or Town without any compensation therefor in lieu of such concession or side road). 13, 14 V. c. 15, s. 1.

Consequences  
of neglect.

3. If the Municipal Corporation of any such City or incorporated Town fail to keep in repair any such road, street or highway within the limits thereof, such default shall be a misdemeanor for which such Corporation shall be punished by fine in the discretion of the Court before whom the conviction is had. 13, 14 V. c. 15, s. 1.]

*What are County Roads and Bridges.*

Jurisdiction of  
county coun-  
cils over roads  
and bridges.

**492.** The County Council shall have exclusive jurisdiction over all roads and bridges lying within any Township, Town or Village of the County, and which the Council by by-law assumes with the assent of such Township, Town or Village Municipality as a County road, or bridge, until the by-law has been repealed by the Council, and over all bridges across streams separating two Townships in the County, and over all bridges crossing streams



or rivers over one hundred feet in width, within the limits of any incorporated Village in the County, and connecting any highway leading through the County, and over all bridges over rivers forming or crossing boundary lines between two Municipalities. 37 V. c. 16, ss. 17 & 19; 39 V. c. 7, s. 2, *Sched. B.*

**493.** Any County Council may assume, make and maintain any Township or County boundary line at the expense of the County, or may grant such sum or sums from time to time for the said purposes as they may deem expedient. 36 V. c. 48 s. 411.

Boundary lines may be maintained by County.

*As to Improving and Maintaining County Roads.*

**494.** When a County Council assumes, by by-law, any road or bridge within a Township as a County road or bridge, the Council shall, with as little delay as reasonably may be, and at the expense of the County, cause the road to be planked, gravelled or macadamized, or the bridge to be built in a good and substantial manner; and further, the County Council shall cause to be built and maintained in like manner, all bridges on any river or stream over one hundred feet in width, within the limits of any incorporated Village in the County, necessary to connect any public highway leading through the County. 37 V. c. 16, s. 18.

Roads or bridges assumed by county councils.

Maintenance of certain bridges in villages.

**495.** It shall be the duty of County Councils to erect and maintain bridges over rivers, forming or crossing boundary lines between two Municipalities (other than in the case of a City or separated Town) within the County; and in case of a bridge over a river forming or crossing a boundary line between two Counties, or a County and a City, such bridge shall be erected and maintained by the Councils of the Counties or County and City respectively; and in case the Councils of such County and City, or the Councils of such Counties, fail to agree on the respective portions of the expense to be borne by the several Municipalities, it shall be the duty of each Council to appoint arbitrators, as provided by this Act, to determine the amount to be so expended, and the award made shall be final. 37 V. c. 16, s. 19.

Bridges between municipalities.

Differences to be settled by arbitration.

*Maintaining Township Roads.*

**496.** All Township boundary lines not assumed by the County Council shall be opened, maintained and improved by the Township Councils, except where it is necessary to erect or maintain bridges over rivers forming or crossing boundary lines between two Municipalities. See 36 V. c. 48, s. 414, and 37 V. c. 16, s. 19.

Boundary lines not assumed by county council.

**497.** Township boundary lines forming also the County boundary lines, and not assumed or maintained by the respective Counties interested, shall be maintained by the respective Townships bordering on the same, except where it is necessary to erect or maintain bridges over rivers forming or crossing boundary lines between two Municipalities. 36 V. c. 48, s. 415; 37 V. c. 16, s. 19.

Township boundaries, being also county boundaries.

*Roads under Joint Jurisdiction.*

Joint jurisdiction over certain roads.

**498.** In case a road lies wholly or partly between a County, City, Town, Township or incorporated Village, and an adjoining County or Counties, City, Town, Township or incorporated Village, the Councils of the Municipalities between which the road lies shall have joint jurisdiction over the same, although the road may so deviate as in some places to be wholly or in part within one or either of them; and the said road shall not include a bridge over a river forming or crossing the boundary line between two Municipalities. 36 V. c. 48, s. 416.

Both councils must concur in by-laws respecting them.

**499.** No by-law of the Council of any one of such Municipalities with respect to any such last mentioned road or bridge, shall have any force until a by-law has been passed in similar terms, as nearly as may be, by the other Council or Councils having joint jurisdiction in the premises. 36 V. c. 48, s. 417.

Arbitration if they do not concur.

**500.** In case the other Council or Councils, for six months after notice of the by-law, omit to pass a by-law or by-laws in similar terms, the duty and liabilities of each Municipality in respect to the road or bridge shall be referred to arbitration under the provisions of this Act. 36 V. c. 48, s. 418.

*Transfer of Powers of Justices in Sessions.*

Certain powers of Justices in Sessions transferred to county councils.

**501.** All powers, duties and liabilities which at any time before the first day of January, one thousand eight hundred and fifty, belonged to the Magistrates in Quarter Sessions, with respect to any particular road or bridge in a County, and are not conferred or imposed upon any other Municipal Corporation, shall belong to the Council of the County, or in case the road or bridge lies in two or more Counties, to the Councils of such Counties; and the neglect and disobedience of any regulations or directions made by such Council or Councils shall subject the offenders to the same penalties and other consequences as the neglect or disobedience of the like regulations of the Magistrates would have subjected them to. 36 V. c. 48, s. 419.

*Roads vested in Her Majesty not affected.*

Roads, etc., as Provincial works vested in Her Majesty, etc., not to be interfered with.

Proclamation by Lieutenant-Governor as to roads, etc., under control of Commissioner of Public Works.

**502.** No Council shall interfere with any public road or bridge vested as a Provincial work in Her Majesty, or in any public Department or Board, and the Lieutenant-Governor shall by Order in Council have the same powers as to such road and bridge as are by this Act conferred on Municipal Councils with respect to other roads and bridges; but the Lieutenant-Governor may by proclamation declare any public road or bridge under the control of the Commissioner of Public Works, to be no longer under his control, and in that case, after a day named in the proclamation, the road or bridge shall cease to be under the control of the Commissioner, and no tolls shall be there-after levied thereon by him, and the road or bridge shall thence-

forth be controlled and kept in repair by the Council of the Municipality. 36 V. c. 48, s. 420.

*Nor Roads on Dominion Lands.*

**503.** No Council shall pass any by-law

Ordinance  
roads, lands,  
etc., not to be  
interfered  
with.

1. For stopping up or altering the direction or alignment of any street, lane or thoroughfare made or laid out by Her Majesty's Ordinance, or the Principal Secretary of State in whom the Ordinance Estates became vested under the Statute of the Province of Canada passed in the nineteenth year of Her Majesty's reign, chapter forty-five, or the Consolidated Statute of Canada, chapter twenty-four, respecting the Ordinance and Admiralty lands, or by the Dominion of Canada; or

19 V., c. 45,  
Con. Stat.  
Can. c. 24.  
See 40 V. c. 8  
(D).

2. For opening any such communication through any lands held by the Dominion of Canada; or

Dominion  
lands.

3. Interfering with any bridge, wharf, dock, quay or other work vested in the Dominion of Canada;

Bridges, etc.

4. Interfering with any land reserved for military purposes, or with the integrity of the public defences,

Military lands.

without the consent of the Government of the Dominion of Canada; and a by-law for any of the purposes aforesaid shall be void unless it recites such consent. 36 V. c. 48, s. 421.

Without con-  
sent of Domin-  
ion,

*Roads Necessary for Egress, not to be Closed.*

**504.** No Council shall close up any public road or highway, whether an original allowance or a road opened by the Quarter Sessions or any Municipal Council, or otherwise legally established, whereby any person will be excluded from ingress and egress to and from his lands or place of residence over such road, unless the Council, in addition to compensation, also provides for the use of such person some other convenient road or way of access to the said lands or residence. 36 V. c. 48, s. 422.

Council not to  
close road  
required by  
individuals  
for ingress,  
egress, etc.

Proviso.

*Width of Roads.*

**505.** No Council shall lay out any road or street more than one hundred nor less than sixty-six feet in width, except where an existing road or street is widened, or unless with the permission of the Council of the County in which the Municipality is situate; but any road, when altered, may be of the same width as formerly, and no highway or street shall be laid out by any owner of land of a less width than sixty-six feet, without the consent of the Council of the Municipality. 36 V. c. 48, s. 423.

Width of  
roads.



*Notices Requisite for By-laws affecting Public Roads.*

Conditions precedent to passing by-laws intended to affect public roads.

**506.** No Council shall pass a by-law for stopping up, altering, widening, diverting or selling any original allowance for road or for establishing, opening, stopping up, altering, widening, diverting or selling any other public highway, road, street or lane ;

Notice to be posted up.

1. Until written or printed notices of the intended by-law have been posted up one month previously in six of the most public places in the immediate neighbourhood of such original allowance for road, street or other highway, road, street or lane ;

And published in newspaper.

2. And published weekly for at least four successive weeks in some newspaper (if there be any) published in the Municipality ; or if there be no such newspaper, then in a newspaper published in some neighbouring Municipality ; and, in either case, in the County Town, if any such there be ;

Parties prejudicially affected to be heard.

3. Nor until the Council has heard, in person or by counsel or attorney, any one whose land might be prejudicially affected thereby, and who petitions to be so heard ;

Clerk to give the notices, on payment of expenses.

4. And the Clerk shall give such notices, at the request of the applicant for the by-law, upon payment of the reasonable expenses attendant on such notices. 36 V. c. 48, s. 424.

*Registration of By-laws for opening Roads.*

By-laws under which roads are opened on private property to be registered.

**507.** Every by-law passed since the twenty-ninth day of March, one thousand eight hundred and seventy-three, or hereafter to be passed by any Municipal Council under the authority of which any street, road or highway has been or is opened upon any private property, shall, before the same becomes effectual in law, be duly registered in the Registry Office of the County or other Registration Division in which the land is situate ; and for the purpose of registration a duplicate original of such by-law shall be made out, certified under the hand of the Clerk and the seal of the Municipality, and shall be registered without any further proof.

As to by-laws already passed.

2. Every by-law passed before the said day, and every order and resolution of the Quarter or General Sessions passed before said day, under the authority of which any street, road or highway has already been opened upon any private property, may, at the election of any party interested, and at the cost and charges of such party or Municipality, be also duly registered, upon the production to the Registrar of a duly certified copy of the by-law under the hand of the Clerk of the Municipality and seal of such Municipality, or by a duly certified copy of such order or resolution of such Quarter or General Sessions, given under the hand of the Clerk of the Peace, as the case may be. 36 V. c. 48, s. 445. See also *Rev. Stat.*, c. 111, s. 73.

*Disputes respecting Roads.—Who to Administer Oaths.*

**508.** In case of disputes in any Municipality concerning roads, allowances for roads, side lines, boundaries or concessions, within the cognizance of and in the course of investigation before a Municipal Council, the head of the Council may administer an oath or affirmation to any party or witness examined upon the matters in dispute. 36 V. c. 48, s. 446.

Power to administer oaths in certain cases.

DIVISION II.—POWERS OF COUNTIES, TOWNSHIPS, CITIES, TOWNS, AND INCORPORATED VILLAGES IN RELATION TO ROADS AND BRIDGES.

*Powers in General, Sec. 509 (1).*

*Respecting Tolls, Sec. 509 (2, 3, 6).*

“ *Timber on Road Allowances, Sec. 509 (4).*

“ *Granting of privileges to Road or Bridge Companies, Sec. 509 (5).*

“ *Materials for Roads, Sec. 509 (7).*

“ *Road Allowances, Sec. 509 (8), 510, 511, 512.*

“ *Aid to Adjoining Municipalities in Making Roads or Bridges, Sec. 513.*

**509.** The Council of every County, Township, City, Town and incorporated Village may pass by-laws—

By-laws may be made for—

*General Powers.*

1. For opening, making, preserving, improving, repairing, widening, altering, diverting or stopping up roads, streets, squares, alleys, lanes, bridges or other public communications within the jurisdiction of the Council, and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions in this Act contained; and for preventing and removing any obstruction upon any roads or bridges within its jurisdiction, and also for permitting sub-ways for cattle under any highway; 36 V. c. 48, s. 425 (1).

Opening or stopping up roads, etc.

*Tolls.*

2. For raising money by toll on any bridge, road or other work, to defray the expense of making or repairing the same; 36 V. c. 48, s. 425 (2).

Raising money by toll.

3. For making regulations as to pits, precipices and deep waters, and other places dangerous to travellers; 36 V. c. 48, s. 425 (3).

Making regulations as to dangerous places.

*Timber, &c., on Road Allowances.*

For preservation of trees, stone, etc.

Rev. Stat. c. 26.

4. For preserving or selling timber, trees, stone, sand or gravel, on any allowance or appropriation for a public road; but this shall be subject to the provisions of *The Act respecting the Sale and Management of Timber on Public Lands* relative to Government road allowances and the granting of Crown timber licenses; 36 V. c. 48, s. 425 (4).

*Permitting Companies to make, &c., Roads and Bridges, &c.*

Granting privileges to road or bridge companies.

5. For regulating the manner of granting to Road or Bridge Companies permission to commence or proceed with roads or bridges within its jurisdiction, and for regulating the manner of ascertaining and declaring the completion of the work so as to entitle such Companies to levy tolls thereon, and for regulating the manner of making the examinations necessary for the proper exercise of these powers by the Council; 36 V. c. 48, s. 425 (5). *See also Rev. Stat. c. 152.*

*Grant of Tolls.*

Granting right to take tolls.

6. For granting to any person, in consideration or part consideration of planking, gravelling or macadamizing a road, or of building a bridge, the tolls fixed by by-law to be levied on the work for a period of not more than twenty-one years after the work has been completed, and after such completion has been declared by a by-law of the Council authorizing tolls to be collected; and the grantee of such tolls shall, during the period of his right thereto, maintain the road or bridge in repair; 36 V. c. 48, s. 425 (6).

*Taking Materials.*

Searching for and taking materials for roads, etc.

7. For searching for and taking such timber, gravel, stone or other material or materials as may be necessary for making and keeping in repair any road or highway belonging to any such Municipality; and the right of entry upon such lands, as well as the price or damage to be paid to any person for such materials, shall, if not agreed upon by the parties concerned, be settled by arbitration in the manner provided by this Act; 36 V. c. 48, s. 425 (7).

*Selling Old Road Allowances.*

When the council may stop up or sell a road allowance.

8. For selling the original road allowance to the parties next adjoining whose lands the same is situated, when a public road has been opened in lieu of the original road allowance, and for the site or line of which compensation has been paid, and for selling in like manner to the owners of any adjoining land any road legally stopped up or altered by the Council; and in case such parties respectively refuse to become the pur-



chasers at such price as the Council thinks reasonable, then for the sale thereof to any other person for the same or a greater price. 36 V. c. 48, s. 425 (8).

**510.** In case any one in possession of a concession road or side line has laid out and opened a road or street in place thereof without receiving compensation therefor, or in case a new or travelled public road has been laid out and opened in lieu of an original allowance for road, and for which no compensation has been paid to the owner of the land appropriated as a public road in place of such original allowance, the owner, if his lands adjoin the concession road, side line, or original allowance, shall be entitled thereto, in lieu of the road so laid out, and the Council of the Municipality, upon the report in writing of its Surveyor, or of a Deputy Provincial Land Surveyor, that such new or travelled road is sufficient for the purposes of a public highway, may convey the said original allowance for road in fee simple to the person or persons upon whose land the new road runs.

When a road is substituted for an original allowance, compensation to person whose land is taken who owns land adjoining original road.

Conveying of former road allowance.

2. When any such original road allowance is, in the opinion of the Council, useless to the public, and lies between lands owned by different parties, the Municipal Council may, subject to the conditions aforesaid, sell and convey a part thereof to each of such parties as may seem just and reasonable; and in case compensation was not paid for the new road, and the person through whose land the same passes does not own the land adjoining the original road allowance, the amount received from the purchaser of the corresponding part of the road allowance when sold shall be paid to the person who at the time of the sale owns the land through which the new road passes. 36 V. c. 48, s. 426.

Compensation to party whose land is taken who does not own land adjoining original road.

### *Possession of Unopened Road Allowances.*

**511.** In case a person is in possession of any part of a Government allowance for road laid out adjoining his lot and enclosed by a lawful fence, and which has not been opened for public use by reason of another road being used in lieu thereof, or is in possession of any Government allowance for road parallel or near to which a road has been established by law in lieu thereof, such person shall be deemed legally possessed thereof, as against any private person, until a by-law has been passed for opening such allowance for road by the Council having jurisdiction over the same. 36 V. c. 48, s. 427.

Original allowances for roads when to be deemed legally possessed till a by-law is passed for opening them.

### *Notice of By-laws for Opening such Allowances.*

**512.** No such by-law shall be passed until notice in writing has been given to the person in possession, at least eight days before the meeting of the Council, that an application will be made for opening such allowance. 36 V. c. 48, s. 428.

Notice of by-law to be given.

*Aiding in making Roads and Bridges.*

By-laws to aid adjoining municipality to open roads, &c.

**513.** The Council of any Municipality may pass by-laws for granting aid to any adjoining Municipality in making, opening, maintaining, widening, raising, lowering, or otherwise improving any highway, road, street, bridge, or communication passing from or through an adjoining Municipality. 36 V. c. 48, s. 429.

**DIVISION III.—POWERS OF TOWNSHIPS, CITIES, TOWNS, AND VILLAGES IN RELATION TO ROADS AND BRIDGES.**

*Aiding Counties in opening New Roads, Sec. 514 (1).*

*Joint Work with other Municipalities, Sec. 514 (2).*

*Repair of Township Roads, how enforced, Secs. 515–523.*

By-laws may be made for—

**514.** The Municipal Council of every Township, City, Town and incorporated Village may pass by-laws—

*New Roads.*

Aiding counties in making roads and bridges.

1. For granting to the County or United Counties in which such Municipality lies, aid, by loan or otherwise, towards opening or making any new road or bridge on the bounds of such Municipality;

*General Arrangements.*

Joint works with other municipalities.

2. For entering into and performing any arrangement with any other Council in the same County or United Counties for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the Council. 36 V. c. 48, s. 430.

*Repair of Township Roads—how Enforced.*

If any township council fails to perform its duty.

**515.** Whenever Township Councils fail to maintain Township boundary lines not assumed by the County Council, in the same way as other Township roads, by mutual agreement as to the share to be borne by each, it shall be competent for one or more of such Councils to apply to the County Council to enforce joint action on all Township Councils interested. 36 V. c. 48, s. 431.

Resident rate-payers may petition county council to enforce opening up of road.

**516.** In cases where all the Township Councils interested neglect or refuse to open up and repair such lines of road in a manner similar to the other local roads, it shall be competent for a majority of the ratepayers resident on the lots bordering on either or both sides of such line to petition the County Council to enforce the opening up or repair of such lines of road by the Township Councils interested. 36 V. c. 48, s. 432.

**517.** A County Council receiving such petition, either from Township Councils or from ratepayers, as in the preceding section mentioned, may consider and act upon the same at the session at which the petition is presented. 36 V. c. 48, s. 433.

Duty of county councils on petition.

**518.** The County Council may determine upon the amount which each Township Council interested shall be required to apply for the opening or repairing of such lines of road, or to direct the expenditure of a certain portion of statute labour, or both, as may seem necessary to make the said lines of road equal to other roads. 36 V. c. 48, s. 434.

Amount, &c., to be furnished by each township.

**519.** It shall be the duty of the County Council to appoint a Commissioner or Commissioners to execute and enforce their orders or by-laws relative to such roads. If the representatives of any or all of the Townships interested intimate to the Council or to the Commissioner or Commissioners so appointed, their intention to execute the work themselves, then such Commissioner or Commissioners shall delay proceedings for a reasonable time; but if the work is not proceeded with during the favourable season by the Township officers, then the Commissioners shall undertake and finish it themselves. 36 V. c. 48, s. 435.

Commissioners to enforce order of county council as to such roads.

Proviso.

**520.** Any sum of money so determined upon by the County Council as the portion to be paid by the respective Townships, shall be paid by the County Treasurer on the order of the Commissioner or Commissioners, and the amount retained out of any money in his hands belonging to such Township; but if there are not at any time before the striking of a County rate any such moneys belonging to such Township in the Treasurer's hands, an additional rate shall be levied by the County Council against such Township sufficient to cover such advances. 36 V. c. 48, s. 436.

Sums determined upon to be paid by townships.

**521.** Wherever the several Townships interested in the whole or part of any County boundary line road are unable mutually to agree as to their joint action in opening or maintaining such line road, or portion thereof, one or more of such Township Councils may apply to the Wardens of the bordering Counties to determine jointly the amount which each Township shall be required to expend either in money or statute labour, or both, and the mode of expenditure on such road; the County Judge of the County in which the Township first making the application is situate shall in all cases be the third arbitrator. 36 V. c. 48, s. 437.

When the several townships interested cannot agree.

Wardens to be arbitrators.

County Judge also.

**522.** It shall be the duty of the Wardens of the Counties interested to meet within twenty-one days from the time of receiving such application for the determination of the matter in dispute. The Warden of the County in which the Township first making the application is situated, shall be the convener of the meeting; and it shall be his duty to notify the Warden of the

Meeting of wardens.

Who to convene, etc.



other County and County Judge of the time and place of meeting, within eight days of the time of his receiving such application. 36 V. c. 48, s. 438.

What the wardens and county judge shall determine, etc.

**523.** At such meeting the Wardens and County Judge, or any two of them, shall determine on the share to be borne by the respective Townships, of the amount required on the part or parts to be opened or repaired by each or both, and shall appoint a Commissioner or Commissioners to superintend such work, and it shall be the duty of the Township Treasurer to pay the orders of such Commissioners to the extent of the sum apportioned to each; and Pathmasters controlling the statute labour on the lots adjoining such line, on the portion of such line to be opened or repaired, shall obey the orders of such Commissioner or Commissioners in performing the statute labour unexpended. 36 V. c. 48, s. 439.

#### DIVISION IV.—POWERS OF COUNTY COUNCILS IN RELATION TO ROADS AND BRIDGES.

- Respecting the Closing of Road Allowances, Sec. 524 (1).*  
 “ *the Opening and altering of Roads, Sec. 524 (2).*  
 “ *Trees obstructing Highways, Sec. 524 (3).*  
 “ *Double Tracks in Snow Roads, Sec. 524 (4).*  
 “ *Aid to Townships, Sec. 524 (5).*  
 “ *the repair of County roads in local Municipalities, Sec. 524 (6).*

By-laws for— **524.** The Council of every County shall have power to pass by-laws for the following purposes:—

##### *Closing Road Allowances.*

Disposing of original allowance for roads in certain cases.

1. For stopping up, or stopping up and sale, of any original allowance for roads or parts thereof within the County, which is subject to the sole jurisdiction and control of the Council, and not being within the limits of any Village, Town or City within or adjoining the County; but the by-law for this purpose shall be subject to the five hundred and sixth section of this Act. 36 V. c. 48, s. 440 (1).

##### *Opening and Altering Roads.*

Opening, etc., roads, etc., within or between several municipalities.

2. For opening, making, preserving, improving, repairing, widening, altering, diverting and stopping up roads, streets, squares, alleys, lanes, bridges or other public communications, running or being within one or more Townships, or between two or more Townships of the County; or any bridge required to be built or made across any river over one hundred feet in width within any incorporated Village in the County connecting any public highway leading through the County, and which is in continuation of a County road, or between the County and any

adjoining County or City or separated Town, or on the bounds of any Town or incorporated Village, within the boundaries of the County, as the interests of the inhabitants of the County, in the opinion of the Council, require to be so opened, made, preserved and improved; and for entering upon, breaking-up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions herein contained. 36 V. c. 48, s. 440 (2). See 37 V. c. 16, s. 17.

*Trees obstructing Highways.*

3. For directing that, on each and either side of a highway under the jurisdiction of the Council passing through a wood, the trees (unless such as are reserved by the owner for ornament or shelter) shall, for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the proprietor within a time appointed by the by-law, or, in his default, by the County Surveyor or other officer in whose division the land lies; and, in the latter case, for authorizing the trees to be used by the Overseer or other officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the by-law into effect; and the Council may further pay such expenses out of County funds. 36 V. c. 48, s. 440 (3).

May direct the trees to be cleared on each side of highways.

*Double Tracks in Snow Roads.*

4. For providing for the making and keeping open of double tracks in snow roads, according to the provisions of *The Act respecting Double Tracks in Snow-Roads*. 36 V. c. 46, s. 1.

Double tracks in snow roads.  
Rev. Stat. c. 185.

*Aiding Townships, &c.*

5. For granting to any Town, Township or incorporated Village in the County, aid by loan or otherwise towards opening or making any new road or bridge in the Town, Township or Village, in cases where the Council deems the County at large sufficiently interested in the work to justify such assistance, but not sufficiently interested to justify the Council in at once assuming the same as a County work, and also for guaranteeing the debentures of any Municipality within the County, as the Council may deem expedient. 36 V. c. 48, s. 440 (4).

For aiding the making of roads and bridges.  
Guaranteeing debentures of local municipalities

*Repair of County Roads in local Municipalities.*

6. For requiring that the whole or any part of any County road within any local Municipality shall be opened, improved and maintained by such local Municipality. 36 V. c. 48, s. 440 (5).

Opening road in local municipalities.

DIVISION V.—POWERS OF TOWNSHIP COUNCILS IN RELATION TO ROADS AND BRIDGES.

*Aiding Counties, Sec. 525 (1).*

*Closing Road Allowances, Sec. 525 (2).*

*Trees obstructing Highways, Sec. 525 (3).*

*Footpaths, Sec. 525 (4).*

*Sale of Mineral Rights, Sec. 526.*

*Sale of Roads in Villages and Hamlets, Secs. 527, 528.*

By-laws for— **525.** The Council of every Township may pass by-laws—

*Aiding Counties.*

Aiding adjoining county in making roads, etc., and granting aid to county for roads assumed by county.

1. For granting to any adjoining County aid in making opening, maintaining, widening, raising, lowering or otherwise improving any highway, road, street, bridge or communication lying between the Township and any other Municipality, and for granting like aid to the County in which the Township lies in respect of any highway, road, street, bridge, or communication within the Township assumed by the County as a County work, or agreed to be so assumed on condition of such grant ; 36 V. c. 48, s. 441 (1).

*Closing Road Allowances.*

Stopping up and sale of original road allowance.

2. For the stopping up and sale of any original allowance for road or any part thereof within the Municipality, and for fixing and declaring therein the terms upon which the same is to be sold and conveyed ;

Proviso.

But no such by-law shall have any force—

(a) Unless passed in accordance with the five hundred and sixth section of this Act, nor

(b) Until confirmed by a by-law of the Council of the County in which the Township is situate, at an ordinary session of the County Council, held not sooner than three months nor later than one year next after the passing thereof ; 36 V. c. 48, s. 441 (2.)

*Trees obstructing Highways.*

Ordering trees to be cut down on each side of a road.

3. For directing that, on each or either side of a highway under the jurisdiction of the Council passing through a wood, the trees (unless such as are reserved by the owner for ornament or shelter) shall, for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the proprietor within a time appointed by the by-law, or, on his default, by the Overseer of Highways, or other officer in whose division the land lies ; and, in the latter case, for authorizing the trees to be used by the Overseer or other officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the by-law into effect ; and the Council may grant out of Township funds any money that may be



necessary to pay for the cutting down and removing such trees; 36 V. c. 48, s. 441 (3).

*Footpaths.*

4. For setting apart so much of any highway as the Council Footpaths. may deem necessary for the purposes of a footpath, and for imposing penalties on persons travelling thereon on horseback or in vehicles. 36 V. c. 48, s. 441 (4).

*Townships and Counties Selling Minerals.*

**526.** The Corporation of any Township or County, wherever Sale of mineral minerals are found, may sell, by public auction or otherwise, rights under the right to take minerals found upon or under any roads over roads. which said Township or County may have jurisdiction, if considered expedient so to do.

2. No such sale shall take place until after due notice No sale till of such intended by-law has been posted up, in six of the after notice. most public places in the immediate neighbourhood of such road, for at least one month previous to the time fixed for considering such by-law.

3. The deed of conveyance to the purchaser or purchasers, under Sale not to said by-law, shall contain a proviso protecting the road for public interfere with travel, and preventing any uses of the granted rights interfering public travel. with public travel. 36 V. c. 48, s. 442.

*Sale of Roads in Villages or Hamlets.*

**527.** In case the Trustees of any Police Village, or fifteen of When roads in the inhabitant householders of any other unincorporated Village or hamlet consisting of not less than twenty dwelling police villages and certain houses standing within an area of two hundred acres, petition hamlets may be stopped up the Council of the Township in which the Village or hamlet is sold, etc., by situate, and in case the petition of such unincorporated Village township councils. or hamlet, not being a Police Village, is accompanied by a certificate from the Registrar of the County within which the Township lies, that a plan of the Village or hamlet has been duly deposited in his office according to the registry laws, the Council may pass a by-law to stop up, sell and convey, or otherwise deal with any original allowance for road lying within the limits of the Village or hamlet, as the same shall be laid down on the plan, but subject to all the restrictions contained in this Act with reference to the sale of original allowances. 36 V. c. 48, s. 443.

**528.** The last section shall apply to a Village or hamlet When village situate in two Townships, whether such Townships are in the is partly in same or different Counties, and in such case the Council of each each of two townships. of the Townships shall have the power thereby conferred, as to any original allowance for road lying within that part of the

Village or hamlet which, according to the registered plan, is situate within such Township. 36 V. c. 48, s. 444.

### TITLE III.—POWERS OF MUNICIPAL COUNCILS AS TO DRAINAGE AND OTHER IMPROVEMENTS PAID FOR BY LOCAL RATE.

DIV. I.—TOWNSHIPS, CITIES, TOWNS AND VILLAGES.

DIV. II.—CITIES, TOWNS AND VILLAGES.

DIV. III.—COUNTIES.

#### DIVISION I.—TOWNSHIPS, CITIES, TOWNS AND VILLAGES.

*Local drainage by-laws, and fund for.* Secs. 529, 530.

*Complaints respecting assessments, how tried.* Sec. 529 (8-13)

*Quashing by-laws, limitations respecting.* Sec. 531-533.

*Extension of works to other Municipalities.* Sec. 534.

*Mode of apportioning cost.* Secs. 535-541.

*Who to keep in repair.* Secs. 542-544.

*Damage done by works.* Sec. 545.

*Drainage by private persons.* Sec. 546.

*Earth may be spread on road.* Secs. 547, 548.

*Construction of ditch on town line between two Municipalities.* Secs. 549, 550.

Municipal councils may pass by-laws for deepening streams, etc., drainage, etc.

Examination by engineer.

Plans and estimates.

**529.** In case the majority in number of the persons, as shown by the last revised assessment roll, to be the owners (whether resident or non-resident) of the property to be benefited in any part of any Township, City, Town or incorporated Village, petition the Council for the deepening of any stream, creek, or water-course, or for draining of the property (describing it), the Council may procure an examination to be made by an Engineer or Provincial Land Surveyor of the stream, creek, or water-course proposed to be deepened, or of the locality proposed to be drained, and may procure plans and estimates to be made of the work by such Engineer or Surveyor, and an assessment to be made by such Engineer or Surveyor of the real property to be benefited by such deepening or drainage, stating as nearly as may be, in the opinion of such Engineer or Surveyor, the proportion of benefit to be derived by such deepening or drainage by every road and lot, or portion of lot; and if the Council is of opinion that the deepening of such stream, creek or water-course, or the draining of the locality described, or a portion thereof, would be desirable, the Council may pass by-laws—

For deepening streams and drainage.

1. For providing for the deepening of the stream, creek or water-course, or the draining of the locality;

2. For borrowing on the credit of the Municipality the funds necessary for the work, although the same extends beyond the limits of the Municipality (subject in that case to be reimbursed as hereinafter mentioned), and for issuing the debentures of the Municipality to the requisite amount, in sums of not less than one hundred dollars each, and payable within fifteen years from date, with interest at a rate of not less than five per centum per annum ;

For borrowing  
requisite  
funds, etc.

3. For assessing and levying in the same manner as taxes are levied, upon the real property to be benefited by the deepening or draining, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing and levying the same, as other taxes are levied, by an assessment and rate on the real property so benefited (including roads held by Joint Stock Companies or private individuals), as nearly as may be to the benefit derived by each lot or portion of lot and road in the locality :

For levying  
rate for pay-  
ment.

(a) Any person whose property has been assessed for such deepening or drainage may pay the amount of such assessment, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionably reduced ; and

Proviso.

(b) Any agreement on the part of any tenant to pay the rates or taxes of the demised property shall not apply to or include the charges or assessments for draining under this section, unless such agreement in express terms mentions or refers to such charges or assessments, and as payable in respect of drainage works ; but in cases of contracts of purchase or of leases giving the lessee a right of purchase, the said charges or assessments shall be added to the price, and shall be paid (as the case may be) by the purchaser, or by the lessee in case he exercises such right of purchase ;

Proviso.

4. For regulating the times and manner in which the assessment shall be paid ;

For providing  
how assess-  
ment be paid.

5. For determining what real property will be benefited by the deepening or draining, and the proportion in which the assessment should be made on the various portions of lands so benefited, and subject in every case of complaint, by the owner or person interested in any property assessed, whether of overcharge or undercharge of any other property assessed, or that property that should be assessed has been wrongfully omitted to be assessed, to proceedings for trial of such complaint and appeal therefrom, in like manner, as nearly as may be, as on proceedings for the trial of complaints to the Court of Revision under "*The Assessment Act.*" 36 V. c. 48. s. 447 ; 37 V. c. 20, s. 1 ; 39 V. c. 34, s. 8.

For ascertain-  
ing the prop-  
erty liable to  
the rate.

Rev. Stat. c.  
180, ss. 56, 57.



Petitions for  
draining lands.

6. The Council shall have the like power, and the provisions of this section shall apply in cases where the drainage can be effectually accomplished only by embanking, pumping or other mechanical operations, but in such cases the Council shall not proceed except upon the petition of two-thirds of the owners above mentioned in this section. 40 V. c. 26, s. 1.

Injury to low  
lying land.

7. In cases provided for by the next preceding sub-section, the Council may pass by-laws for assessing and defraying the annual cost of maintaining the necessary works upon the lands and roads to be benefited thereby, according to provisions of this Act; and may do all things necessary, and pass all requisite and proper by-laws, and enter into all proper contracts for maintaining and giving full effect to said works; and all the provisions of this and the following sections to section five hundred and fifty-eight inclusive, shall be applicable, so far as possible to the draining of lands under sub-section six of this section; except that the provisions of section five hundred and forty-three shall not apply to any of the works mentioned in said sub-section six, except during the pleasure of the Council of the Municipality in which the works are situate. 40 V. c. 26, ss. 2 & 3.

Sections 529-  
558 to apply.

Section 543  
only to apply  
during the  
will of the  
Council.

Court of  
Revision to  
have primary  
jurisdiction.

8. Trial of such complaints shall be had in the first instance by and before the Court of Revision of the Municipality in which the lands or roads lie, which Court the Council shall, from time to time as occasion may require, hold on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, notice of which shall be published with the by-law during the first three weeks of its publication.

Power of.  
Rev. Stat. c.  
180, ss. 47-55.

9. Such Court shall be constituted in the same manner and have the same powers as Courts of Revision under "*The Assessment Act*."

Transmission  
of assessment  
roll.

10. In case of any such complaint, the Clerk with whom the roll is deposited shall transmit to the Court of Revision a certified copy of so much of the said roll as relates to such Municipality.

Appeal to  
county judge.

11. The appeal from the Court of Revision shall be to the Judge, or Junior or acting Judge, of the County Court of the County within which such Municipality is situate.

Powers of  
judge on ap-  
peal.

12. In case of appeal to the Judge, Junior or acting Judge of the County Court, he shall have the same powers and duties, and the Clerk of the Municipality shall have the same powers and duties, as nearly as may be, as they have respectively upon appeals from the Court of Revision under "*The Assessment Act*."

Rev. Stat. c.  
180, ss. 59-65.

13. In case, on any such complaint or appeal, the assessment is varied in respect of the property which is the subject of the complaint or appeal, the Court or Judge, as the case may be, shall vary *pro rata* the assessment of the said property, and of the other lands and roads benefited as aforesaid, without further notice to the persons interested therein, so that the aggregate amount assessed shall be the same as if there had been no appeal; and the Judge, or in case there is no appeal to the Judge, the Court of Revision shall return the roll to the Municipal Clerk from whom it was received, and the Assessors shall prepare and attest a roll in accordance with their original assessment as altered by such revision. 36 V. c. 48, s. 447; 40 V. c. 8, s. 57.

Variation  
assessment on  
complaint or  
appeal.

**530.** Such by-law shall, *mutatis mutandis*, be in the form or to the effect following: Form of by-law.

A BY-LAW to provide for draining parts of (or, for the deepening of in, as the case may be) the Township of \_\_\_\_\_, and for borrowing, on the credit of the Municipality, the sum of \_\_\_\_\_ for completing the same.

Provisionally adopted the \_\_\_\_\_ day of \_\_\_\_\_, A.D.

Whereas a majority in number of the owners, as shown by the last revised assessment roll, of the property hereinafter set forth, to be benefited by the drainage (or deepening, as the case may be), have petitioned the Council of the said Township of \_\_\_\_\_, praying that (here set out the purport of the petition, describing generally the property to be benefited.)

And whereas, thereupon the said Council procured an examination to be made by \_\_\_\_\_, being a person competent for such purpose, of the said locality proposed to be drained (or the said stream, creek or water-course proposed to be deepened, as the case may be), and has also procured plans and estimates of the work to be made by the said \_\_\_\_\_, and an assessment to be made by him of the real property to be benefited by such drainage (or deepening, as the case may be), stating, as nearly as he can, the proportion of benefit which, in his opinion, will be derived in consequence of such drainage (or deepening, as the case may be), by every road and lot or portion of lot, the said assessment so made, and the report of the said \_\_\_\_\_ in respect thereof, and of the said drainage (or deepening, as the case may be) being as follows: (here set out the report and assessment of the Engineer or Surveyor employed.)

And whereas the said Council are of opinion that the drainage of the locality described (or, the deepening of such stream, creek or water-course, as the case may be) is desirable:

Be it therefore enacted by the said Municipal Council of the said Township of \_\_\_\_\_, pursuant to the provisions of chapter one hundred and seventy-four of "The Revised Statutes of Ontario"—

1st. That the said report, plans and estimates be adopted, and the said drain (or deepening, as the case may be) and the works connected therewith be made and constructed in accordance therewith.

2nd. That the Reeve of the said Township may borrow on the credit of the Corporation of the said Township of \_\_\_\_\_ the sum of \_\_\_\_\_, being the funds necessary for the work, and may issue debentures of the Corporation to that amount, in sums of not less than one hundred dollars each, and payable within \_\_\_\_\_ years from the date thereof, with interest at the rate of \_\_\_\_\_ per centum per annum, that is to say, in (insert the manner of payment, whether in annual payments or otherwise), such de-

ventures to be payable at \_\_\_\_\_, and to have attached to them coupons for the payment of interest.

3rd. That for the purpose of paying the sum of (*four hundred and seventy-five dollars*), being the amount charged against the said lands so to be benefited as aforesaid, other than lands (*or roads, or lands and roads*) belonging to the Municipality, and to cover interest thereon for (*ten*) years, at the rate of (*five*) per cent. per annum, the following special rates, over and above all other rates, shall be assessed and levied (in the same manner and at the same time as taxes are levied) upon the undermentioned lots and parts of lots; and the amount of the said special rates and interest assessed as aforesaid against each lot or part of lot respectively shall be divided into \_\_\_\_\_ equal parts, and one such part shall be assessed and levied as aforesaid, in each year, for \_\_\_\_\_ years after the final passing of this by-law, during which the said debentures have to run.

Conces- sion.	Lot or Part of Lot.	Acres.	Value of Improvement.	To cover Interest for (10) years at (5) per cent.	Total Special Rate.	Annual Assessment during each year for (10) years.
10	5	200	\$ cts. 75 00			
"	S $\frac{1}{2}$ 6	100	50 00			
"	N $\frac{1}{4}$ 6	50	30 00			
"	S W $\frac{1}{2}$ 8	100	80 00			
"	9	200	150 00			
"	S $\frac{1}{2}$ and N $\frac{1}{4}$ 10	150	90 00			
			475 00			
Chargeable to Municipality for roads ( <i>or lands, or roads and lands</i> ) .....			120 00			
			595 00			

4th. For the purpose of paying the sum of *one hundred and twenty dol-  
lars*, being the total amount assessed as aforesaid against the said roads  
(*or lands, or roads and lands*) of the said Municipality. and to cover in-  
terest thereon for (*ten*) years at the rate of (*five*) per cent. per annum,  
a special rate of \_\_\_\_\_ in the dollar shall, over and above all other  
rates, be levied (in the same manner and at the same time as taxes are  
levied) upon the whole rateable property in the said Township of \_\_\_\_\_  
in each year for the period of \_\_\_\_\_ years, after the date of the final  
passing of this by-law, during which the said debentures have to run.

Amendment  
of by-law.

2. In the event of the assessment being altered by the Court  
of Revision or Judge, the by-law shall, before being finally  
passed, be amended so as to correspond with such alteration  
by the Court of Revision or Judge (as the case may be). 36  
V. e. 48, s. 448.

Before final  
passing by-law  
to be publish-  
ed.

Also notice as  
to when and  
how proceed-  
ings to quash  
to be taken.

**531.** Before the final passing of the by-law it shall be pub-  
lished once or oftener in every week for four weeks in some  
newspaper in the Municipality, or, if no newspaper is published  
therein, then in some newspaper published in the nearest Muni-  
cipality in which a newspaper is published, together with a notice  
that any one intending to apply to have such by-law, or any part  
thereof, quashed, must, within ten days after the final passing  
thereof, serve a notice in writing upon the Reeve or other head  
officer, and upon the Clerk of the Municipality, of his intention



to make application for that purpose to one of Her Majesty's Superior Courts of Law at Toronto, during the Term next ensuing the final passing of the by-law, and the Council shall, at least three weeks before the final passing of the by-law, post up conspicuously a copy thereof, and of the said notices, at four or more of the most public places of the Municipality. 36 V. c. 48, s. 449.

Copy of by-law and notices to be posted up.

**532.** In case no such notice of intention to make application to quash a by-law is served within the time limited for that purpose in the preceding section, the by-law shall, notwithstanding any want of substance or form, either in the by-law itself or in the time and manner of passing the same, be a valid by-law. 36 V. c. 48, s. 450.

If no application to quash made in time specified, by-law to be valid, notwithstanding defects.

2. In case any by-law already passed, or which may be hereafter passed by the Council of any Municipality, for the construction of drainage works by assessment upon the real property to be benefited thereby, and which has been acted upon by the construction of such works in whole or in part, does not provide sufficient means, or provides more than sufficient means for the completion of the works, or for the redemption of the debentures authorized to be issued thereunder as the same become payable, the said Council may, from time to time, amend the by-law in order fully to carry out the intention thereof, and of the petition on which the same was founded. 37 V. c. 20, s. 2; 40 V. c. 7, *Sched. A* (183).

Power to amend by-law when no sufficient means provided for completion of the work.

**533.** No debenture issued or to be issued under any by-law aforesaid shall be held invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums not in the whole exceeding the amount authorized by the by-law. 37 V. c. 20, s. 3.

Debentures not to be invalid, though not in accordance with by-law.

**534.** Wherever it is necessary to continue the deepening or drainage aforesaid beyond the limits of any Municipality, the Engineer or Surveyor employed by the Council of such Municipality may continue the survey and levels into the adjoining Municipality, until he finds fall enough to carry the water beyond the limits of the Municipality in which the deepening or drainage was commenced. 36 V. c. 48, s. 451.

When work may be extended beyond limits of municipality.

**535.** Where the deepening and drainage do not extend beyond the limits of the Municipality in which they are commenced, but, in the opinion of the Engineer or Surveyor aforesaid, benefit lands in an adjoining Municipality, or greatly improve any road lying within any Municipality, or between two or more Municipalities, then the Engineer or Surveyor aforesaid shall charge the lands to be so benefited, and the Corporation, person or company whose road or roads are improved, with such proportion of the costs of the works as he may deem just; and the amount so charged for roads, or agreed upon by the

When lands, etc., in adjoining municipality may be charged though works not carried in to such municipality.

arbitrators, shall be paid out of the general funds of such Municipality or company. 36 V. c. 48, s. 452.

Report as to which municipality to bear expense.

**536.** The Engineer or Surveyor aforesaid shall determine and report to the Council by which he was employed, whether the deepening or drainage shall be constructed and maintained solely at the expense of such Municipality, or whether it shall be constructed and maintained at the expense of both Municipalities, and in what proportion. 36 V. c. 48, s. 453.

Plans, etc.

**537.** The Engineer or Surveyor aforesaid, where necessary, shall make plans and specifications of the deepening or drainage to be constructed, and charge the lands to be benefited by the work as provided herein. 36 V. c. 48, s. 454.

Council of municipality wherein work begun to notify municipality to be benefited.

**538.** The Council of the Municipality in which the deepening or drainage is to be commenced, shall serve the head of the Council of the Municipality into which the same is to be continued, or whose lands or roads are to be benefited without the deepening or drainage being continued, with a copy of the report, plans and specifications of the Engineer or Surveyor aforesaid, when necessary, so far as they affect such last mentioned Municipality; and unless the same is appealed from as hereinafter provided, it shall be binding on the Council of such Municipality. 36 V. c. 48, s. 455.

Municipality so notified shall proceed to raise necessary amounts.

**539.** The Council of such last mentioned Municipality shall, within four months from the delivery to the head of the corporation of the report of the Engineer or Surveyor, as provided in the next preceding section, pass a by-law or by-laws to raise such sum as may be named in the report, or in case of an appeal, for such sum as may be determined by the arbitrators, in the same manner and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in the five hundred and twenty-ninth section of this Act. 36 V. c. 48, s. 456.

But such municipality may appeal.

Proceedings thereon.

**540.** The Council of the Municipality into which the deepening or drainage is to be continued, or whose lands, road or roads are to be benefited without the deepening or drainage being carried within its limits, may, within twenty days from the day in which the report was served on the head of the Municipality, appeal therefrom; in which case they shall serve the head of the Corporation from which they received the report, with a written notice of appeal; such notice shall state the ground of appeal, the name of an Engineer or other person as their arbitrator, and shall call upon such Corporation to appoint an arbitrator in the matter on their behalf, within ten days after the service of such notice. 36 V. c. 48, s. 457.

**541.** The arbitrators shall be appointed by the parties in manner hereinbefore provided by the sections of this Act with reference to arbitration, and shall proceed as therein directed; but in no case shall the Engineer or Surveyor employed to make surveys, plans and specifications be appointed or act as arbitrator. 36 V. c. 48, s. 458.

Arbitrators shall be appointed, etc.

**542.** After such deepening or drainage is fully made and completed, it shall be the duty of each Municipality, in the proportion determined by the Engineer or arbitrators (*as the case may be*), or until otherwise determined by the Engineer or arbitrators, under the same formalities, as nearly as may be, as provided in the preceding sections, to preserve, maintain and keep in repair the same within its own limits, either at the expense of the Municipality, or parties more immediately interested, or at the joint expense of such parties and the Municipality, as to the Council, upon the report of the Engineer or Surveyor, may seem just.

Each municipality to contribute to maintaining such deepening or drainage in proportions fixed by engineer.

2. Any such Municipality neglecting or refusing so to do, upon reasonable notice in writing being given by any party interested therein, shall be compellable by *mandamus* to be issued by any Court of competent jurisdiction, to make from time to time the necessary repairs to preserve and maintain the same; and shall be liable to pecuniary damage to any person who or whose property is injuriously affected by reason of such neglect or refusal. 36 V. c. 48, s. 459.

Provisions for case of neglect etc.

Liability for damage.

**543.** In any case wherein after such deepening or drainage is fully made and completed, the same has not been continued into any other Municipality than that in which the same was commenced, or wherein the lands or roads of any such other Municipality are not benefited by such deepening or drainage, it shall be the duty of the Municipality making such deepening or drainage, to preserve, maintain and keep in repair the same at the expense of the lots, parts of lots and roads, as the case may be, as agreed upon and shown in the by-law when finally passed.

When works not extended beyond limits of municipality commencing same, etc., or do not benefit any other municipality, works to be maintained by municipality commencing same.

2. In any case where similar drainage has been constructed out of the general funds of the Municipality previous to the tenth day of February, 1876, the Council may without petition, on the report of an Engineer or Surveyor, pass a by-law for preserving, maintaining and keeping in repair the same at the expense of the lots, parts of lots and roads, as the case may be, benefited by such drainage, and may assess such lots, parts of lots and roads so benefited, for the expense thereof, in the same manner, by the same proceedings, and subject to the same right of appeal as is provided with regard to drainage made and completed under the provisions of this Act.

When drainage already completed has been paid for out of funds of Municipality repair may be charged on property benefited.

3. The Council may, from time to time, change such assessment on the report of an Engineer or Surveyor appointed

And assessment charged.



by them to examine and report on such drain, deepening and repairs, subject to the like rights of appeal as the persons charged would have in the case of an original assessment. 36 V. c. 48, s. 460; 39 V. c. 34, s. 7.

Case of a drain being used by another municipality.

**544.** If a drain already constructed, or hereafter constructed, by a Municipality, is used as an outlet, or otherwise by another Municipality, Company or individual, such Municipality, company or individual using the same as an outlet or otherwise, may be assessed for the construction and maintenance thereof in such proportion and amount as may be ascertained by the Engineer, Surveyor or arbitrators under the formalities provided in the preceding sections. 36 V. c. 48, s. 461.

Disputes as to damage done by works to be referred to arbitration.

**545.** If any dispute arises between individuals, or between individuals and a Municipality or Company, or between a Company and Municipality, or between Municipalities, as to damages alleged to have been done to the property of any Municipality, individual or company, in the construction of drainage works, or consequent thereon, then the Municipality, Company or individual complaining may refer the matter to arbitration, as provided in this Act; and the award so made shall be binding on all parties. 36 V. c. 48, s. 462.

Drains into adjoining lots or across highways.

**546.** In case any person finds it necessary to continue an under-drain into an adjoining lot or lots, or across or along any public highway, for the purpose of an outlet thereto, and in case the owner of such adjoining lot or lots, or the Council of the Municipality, refuses to continue such drain to an outlet, or to join in the cost of the continuation of such drain, then the firstly mentioned person shall be at liberty to continue his said drain to an outlet through such adjoining lot or lots, or across or along such highway; and in case of any dispute as to the proportion of cost to be borne by the owner of any adjoining lot or Municipality, the same shall be determined by the fence-viewers in the same manner as disputes within "*The Line Fences Act*," excepting as to the amount of such award which shall be finally decided by the fence-viewers, and their award shall be final. 37 V. c. 16, s. 20.

Rev. Stat. c. 198.

Power to contract to spread earth, etc., on making ditch for drainage, ss. 529 to 558.

**547.** Where, under the provisions of the sections five hundred and twenty-nine to five hundred and fifty-eight, both inclusive, of this Act, a ditch is being constructed for drainage purposes along a road allowance, contracts may be made by the Municipal Council so constructing for spreading the earth taken from the ditch on the road; and if the road or any part thereof is timbered, or if stumps are in the way, the timber may be removed; and not less than twelve feet of the centre of the road shall be grubbed before the earth is spread upon it. 39 V. c. 34, s. 3.

**548.** The removal of the timber, grubbing and spreading of the earth, together with such portion of the cost of the ditch as the Engineer or Provincial Land Surveyor may deem just and proper, shall be charged to the Municipality and paid out of its general funds. 39 V. c. 34, s. 4. Payment by municipality.

**549.** Where it is necessary to construct such a ditch along a town line between two or more Municipalities, the Municipal Council of either of the adjoining Municipalities may, on petition, as provided for in section five hundred and twenty-nine of this Act, cause the ditch to be constructed on either side of the road allowance between the Municipalities, and make the road in manner as provided in the two preceding sections of this Act, and shall charge the lands and roads benefited in the adjoining Municipality or Municipalities with such proportion of the cost of constructing the said ditch as the Engineer or Surveyor aforesaid deems just and proper; and the amount so charged for roads, or agreed upon by the arbitrators, shall be paid out of the general funds of such Municipality or Municipalities. 39 V. c. 34, s. 5. Construction of ditch on town line between municipalities.

**550.** The provisions of sections five hundred and twenty-nine to five hundred and fifty-eight, both inclusive, of this Act shall apply as far as applicable to any such ditch. 39 V. c. 34, s. 6. Sec. 529-558 to apply.

## DIVISION II.—LOCAL IMPROVEMENTS IN CITIES, TOWNS AND VILLAGES.

*Local Improvements. Secs. 551-554.*

*Sweeping, Watering and Lighting Streets. Sec. 555.*

*Acquisition of Lands beyond the limits for public purposes. Sec. 556.*

**551.** The Council of every City, Town, and incorporated Village may pass by-laws for the following purposes: City, town and village councils may make by-laws for—

1. For providing the means of ascertaining and determining what real property will be immediately benefited by any proposed improvement, the expense of which is proposed to be assessed as hereinafter mentioned upon the real property immediately benefited thereby; and of ascertaining and determining the proportions in which the assessment is to be made on the various portions of real estate so benefited; subject in every case to an appeal to the Judge of the County Court, in the same manner and on the same terms, as nearly as may be, as an appeal from the Court of Revision in the case of an ordinary assessment; 36 V. c. 48, s. 464 (1). Ascertain the real property to be benefited by a local improvement, etc.  
Appeal.

2. For assessing and levying upon the real property to be immediately benefited by the making, enlarging or prolonging of any common sewer, or the opening, widening, prolonging, or altering, macadamizing, grading, levelling, paving or plank- Assessing and levying upon real property benefited by certain public

works undertaken on a petition, etc.

ing of any street, lane or alley, public way or place, or of any sidewalk, or any bridge forming part of a highway therein, on the petition of at least two-thirds in number of the owners of such real property, representing one-half the value of such real property, a special rate, sufficient to include a sinking fund, for the re-payment of debentures which such Councils are hereby authorized to issue in such cases respectively, on the security of such rates respectively, to provide funds for such improvements; and for so assessing and levying the same, by an annual rate in the dollar on the real property so benefited, according to the value thereof, exclusive of improvements; 36 V. c. 48, s. 464 (2).

Regulating time and manner of levying assessments, etc.

3. For regulating the time or times and manner in which the assessments to be levied under this section are to be paid, and for arranging the terms on which parties assessed for local improvements may commute for the payment of their proportionate shares of the cost thereof in principal sums; 36 V. c. 48, s. 464 (3);

If funds furnished by parties.

4. For effecting any such improvement as aforesaid with funds provided by parties desirous of having the same effected. 36 V. c. 48, s. 464 (4).

Conditions precedent to undertaking any such public works.

**552.** No such local improvement as aforesaid shall be undertaken by the Council (unless as provided in the next section), except under a by-law passed in pursuance of the fourth subsection of the preceding section, otherwise than on the petition of two-thirds in number of the owners of the real property to be directly benefited thereby, representing at least one-half in value of such real property; the number of such owners and the value of such real property having been first ascertained, and finally determined in the manner and by the means provided by by-law in that behalf; and if the contemplated improvement is the construction of a common sewer having a sectional area of more than four feet, one-third of the cost thereof shall also first be provided for by the Council, by by-law for borrowing money, which every such Council is hereby authorized to pass for such purpose, or otherwise. 36 V. c. 48, s. 465.

Further conditions as to sewers.

In certain cases petitions may be dispensed with.

**553.** In cases where the Council of any City, Town or incorporated Village decides to contribute at least half of the cost of such local improvement, it shall be lawful for the said Council to assess and levy, in manner hereinbefore provided by the five hundred and fifty-first and five hundred and fifty-second sections of this Act, from the owners of real property to be directly benefited thereby, the remaining portion of such cost without petition therefor, unless the majority of such owners representing at least one-half in value of such property, petition the Council against such assessment, within one month after the publication of a notice of such proposed assessment in at least two newspapers published in such City, Town or incor-

Unless assessment petitioned against.



porated Village, if there are two newspapers published therein, and if there are not, then in two newspapers published nearest the proposed work. 36 V. c. 48, s. 466.

**554.** Nothing contained in the three next preceding sections of this Act shall be construed to apply to any work of ordinary repair or maintenance; and every common sewer made, enlarged or prolonged, and every street, lane, alley, public way or place, and sidewalk therein, once made, opened, widened, prolonged, altered, macadamized, paved or planked under the said sections of this Act, shall thereafter be kept in a good and sufficient state of repair at the expense of the City, Town, or Village generally. 36 V. c. 48, s. 467.

Certain sections not to apply to certain works.

*Sweeping, Lighting and Watering Streets.*

**555.** The Council of every City, Town and incorporated Village may pass by-laws for raising, upon the petition of at least two-thirds of the freeholders and householders resident in any street, square, alley or lane, representing in value one-half of the assessed real property therein, such sums as may be necessary for sweeping, watering or lighting the street, square, alley or lane, by means of a special rate on the real property therein according to the frontage thereof; but the Council may charge the general corporate funds with the expenditure incurred in such making or repairing, or in such sweeping, watering or lighting as aforesaid.

Lighting, watering and sweeping streets.

2. The Council may also, by by-law, define certain areas or sections within the Municipality in which the streets should be watered, and may impose a special rate upon the assessed real property therein, according to the frontage thereof, in order to pay any expenses incurred in watering such streets. 36 V. c. 48, s. 468; 37 V. c. 16, s. 21.

**556.** The Council of any City, Town, or incorporated Village may from time to time as occasion may require, acquire and hold by purchase or otherwise, for the public use of the Municipality, lands situate outside the limits of such City, Town or incorporated Village; but such lands so acquired, shall not form part of the Municipality of such City, Town or incorporated Village, but shall continue and remain as of the Municipality where situate. 40 V. c. 25, s. 1. See also Secs. 461 (7), and 467 (8).

Power to Cities, Town and incorporated Villages to acquire lands outside their limits.

DIVISION III.—COUNTY BY-LAWS FOR ROAD IMPROVEMENTS.

*Special rates by County Councils for local improvements in Townships, Secs. 557, 558.*

**557.** The Council of every County shall have power to pass by-laws for levying by assessment on all rateable property with-

Local rates or special improvements.

in any particular part of one or parts of two Townships to be described by metes and bounds in the by-law, in addition to all other rates, a sum sufficient to defray the expenses of making, repairing or improving any road, bridge, or other public work, lying within one Township or between parts of such two Townships, and by which the inhabitants of such parts will be more especially benefited, but this section shall not apply to any road, bridge or other public works within the limits of any Town or incorporated Village. 36 V. c. 48, s. 469.

Proceedings  
to obtain by-  
law for such  
improvements.

**558.** No by-law under the last preceding section shall be passed, except—

1. Upon a petition signed by at least two-thirds of the electors who are rated for at least one-half of the value of the property within those parts of such Townships which are to be affected by the by-law; nor

Notice,

posted up,

and published  
for three  
weeks.

2. Unless a printed notice of the petition, with the names of the signers thereto, describing the limits within which the by-law is to have force, has been given for at least one month, by putting up the same in four different places within such parts of the Township, and at the places for holding the sittings of the Council of each Township, whether it be within such parts or not, and also by inserting the same weekly for at least three consecutive weeks in some newspaper (if any there be), published in the County Town, or if there is no such newspaper, then in the two newspapers published nearest the proposed work. 36 V. c. 48, s. 470.

#### TITLE IV.—POWERS OF MUNICIPAL COUNCILS AS TO RAILWAYS.

*Aiding by taking stock, loan, guarantee or bonus. Sec. 559.*

*Head of Council to be a Director ex-officio. Sec. 560.*

*Townships may permit Railways to pass along highways, &c. Sec. 561.*

By-laws may  
be made for—

**559.** The Council of every Township, County, City, Town and incorporated Village may pass by-laws—

Taking stock  
in certain rail-  
ways or guar-  
anteeing  
debentures.

14, 15 V. c. 61,  
s. 18.

C. S. C. c. 66,  
ss. 75-78.

Rev. Stat.  
c. 165, s. 31.

1. For subscribing for any number of shares in the capital, stock of, or for lending to or guaranteeing the payment of any sum of money borrowed by an incorporated Railway Company to which the eighteenth section of the statute fourteenth and fifteenth Victoria, chapter fifty-one, or sections seventy-five to seventy-eight inclusive of chapter sixty-six of the Consolidated Statutes of Canada, or the equivalent sections of "*The Railway Act of Ontario*," have been or may be made applicable by any special Act; 36 V. c. 48, s. 471 (1).

2. For endorsing or guaranteeing the payment of any debenture to be issued by the Company for the money by them borrowed, and for assessing and levying from time to time, upon the whole rateable property of the Municipality, a sufficient sum to discharge the debt or engagement so contracted; 36 V. c. 48, s. 471 (2). For guaranteeing the payment of debentures, etc.

3. For issuing, for the like purpose, debentures payable at such times, and for such sums respectively, not less than twenty dollars, and bearing or not bearing interest as the Municipal Council thinks meet; 36 V. c. 48, s. 471 (3). For issuing debentures, etc.

4. For granting bonuses to any Railway Company in aid of such Railway, and for issuing debentures in the same manner as is in the preceding sub-section provided for raising money to meet such bonuses; 36 V. c. 48, s. 471 (4). Bonuses.

5. For directing the manner and form of signing or endorsing any debenture so issued, endorsed or guaranteed, and of countersigning the same, and by what officer or person the same shall be so signed, endorsed or countersigned respectively : Form of debenture.

But no Municipal Corporation shall subscribe for stock or incur a debt or liability for the purposes aforesaid, unless the by-law before the final passing thereof receives the assent of the electors of the Municipality in manner provided by this Act. 36 V. c. 48, s. 471 (5). (*See also Rev. Stat. c. 165, s. 31*) (3). Subscriptions, etc., to be confirmed by assent of electors.

**560.** In case any Municipal Council subscribes for and holds stock in a Railway Company under section five hundred and fifty-nine to the amount of twenty thousand dollars or upwards, the head of the Council shall be *ex-officio* one of the Directors of the Company, in addition to the number of Directors authorized by the special Act, and shall have the same rights, powers and duties as the other Directors of the company. 36 V. c. 48, s. 475. (*See also Rev. Stat. c. 165, s. 31*) (4). In certain cases, head of council to be *ex-officio* a director.

**561.** The Council of every Township may pass by-laws for authorizing any Railway Company, in case such authority is necessary, to make a branch railway on property of the Corporation, or on highways, under such conditions as the Council sees fit, and subject to the restrictions contained in "*The Railway Act of Ontario*," and any other Acts affecting such railway; and may also pass by-laws to authorize companies or individuals to construct tramways and other railways along any highway on such terms and conditions as the Council sees fit. 36 V. c. 48, s. 476. By-laws authorizing branch railways, tram and other railways along highways. Rev. Stat. c. 165.



## PART VIII.

## POLICE VILLAGES.

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 DIV. I.—FORMATION OF.

DIV. II.—TRUSTEES, AND ELECTION OF.

DIV. III.—DUTIES OF POLICE TRUSTEES.

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 DIVISION I.—FORMATION OF.
*Existing Villages continued. Sec. 562.**New—how formed. Sec. 563.*Existing  
police villages  
continued.

**562.** Until otherwise provided by competent authority, every existing Police Village shall continue to be a Police Village, with the boundaries now established. 36 V. c. 48. s. 477.

New police  
villages.

**563.** On the petition of any of the inhabitants of an unincorporated Village, the Council or Councils of the County or Counties within which the Village is situate may, by by-law, erect the same into a Police Village, and assign thereto such limits as may seem expedient. 36 V. c. 48, s. 478.

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 DIVISION II.—TRUSTEES, AND ELECTION THEREOF.
*Existing Trustees continued. Sec. 564.**Trustees three in number. Sec. 565.**Qualification required for. Secs. 566, 567.**Electors, who are. Sec. 568.**Election, where to be held. Secs. 569, 570.**Returning Officer, how appointed. Sec. 570.**No Election in a Tavern. Sec. 571.**Nomination, how conducted. Secs. 572–574.**Polling, how conducted. Secs. 575–579.**Powers of Returning Officer. Sec. 580.**Tenure of office. Sec. 581.**Voters' Lists, &c., to be returned. Sec. 582.**Vacancies, how filled. Sec. 583.**Inspecting Trustee, how appointed. Sec. 584.*Present trus-  
tees continued.

**564.** The Trustees of every Police Village existing when this Act takes effect, shall be deemed the Trustees respectively of every such Village as continued under this Act. 36 V. c. 48, s. 479.

**565.** The Trustees of every Police Village shall be three in number. 36 V. c. 48, s. 480. Number of trustees

**566.** The persons qualified to be elected Police Trustees shall be such persons as reside within the Police Village or within two miles thereof, and are eligible to be elected Township Councillors, and are qualified in respect of property for which they are rated in such Police Village to the amount required so to qualify them. 36 V. c. 48, s. 481. Qualification of trustees.

**567.** If there are not six persons qualified under the preceding section, any person entitled to vote at the election may be elected. 36 V. c. 48, s. 482. Deficiency in number of qualified persons

**568.** Any Township elector, rated on the last assessment roll for such property in a Police Village as entitles him to vote in respect thereof at the municipal election for the Township, shall be entitled to vote at the election for Police Trustees. 36 V. c. 48, s. 483. Qualification of electors.

**569.** The Council by which a Police Village is established shall, by the by-law establishing the same, name the place in the Village for holding the first election of Police Trustees, and the Returning Officer therefor. 36 V. c. 48, s. 484. Place for holding first election, etc.

**570.** In a Police Village, after the first election, the Trustees thereof, or any two of them, shall, from time to time, by writing under their hands, appoint the Returning Officer, and the place or places within such Village for holding nominations and elections. 36 V. c. 48, s. 485. Place for holding subsequent elections, etc.

**571.** No election of Police Trustees shall be held in a tavern, or in a house of public entertainment licensed to sell spirituous liquors. 36 V. c. 48, s. 486. No elections to be in taverns.

**572.** A meeting of the electors shall take place for the nomination of candidates for the offices of Police Trustees, in each Police Village, at noon on the last Monday in December, annually, at such place therein as is from time to time fixed by the Trustees. Nomination meeting.

2. When the last Monday in December happens to be Christmas day, the meeting shall be held on the preceding Friday. 36 V. c. 48, s. 487 ; 39 V. c. 7, s. 20. Provision for Christmas Day.

**573.** The Returning Officer (or, in his absence, a Chairman to be chosen) shall preside at such meeting, of which the Police Trustees shall give at least six days' notice. 36 V. c. 48, s. 488. Who to preside.

**574.** If only three candidates are proposed and seconded, the Returning Officer or Chairman shall, after a lapse of one hour, declare such candidates duly elected. 36 V. c. 48, s. 489. If no more candidates than officers.

If more and  
poll demand-  
ed.

Election.

**575.** If more than the necessary number of candidates are proposed, the Returning Officer or Chairman shall adjourn the proceedings until the first Monday in January, when a poll or polls shall be opened for the election, at nine o'clock in the morning, and shall continue open until five o'clock in the afternoon, and no longer. 36 V. c. 48, s. 490.

Notice of per-  
sons proposed,  
to be posted.

List of voters  
to be obtained.

**576.** The Returning Officer or Chairman of the meeting shall, on the day following that of the nomination, post up in the office of the Clerk of the Township, if it is situated in such Police Village, and if not, then in some other public place in such Police Village, the names of the persons nominated at such meeting; and shall, if a poll is necessary, demand in writing from the Clerk of the Township, or Clerks of the Townships, a list of the names of the persons appearing by the assessment roll to be entitled to vote in the said Police Village, such as is required to be furnished under the next section. 36 V. c. 48, s. 491; 40 V. c. 7, *Sched. A* (184).

Clerk of town-  
ship to furnish  
alphabetical  
list of voters.

List to be  
attested by  
declaration.

**577.** The Clerk of the Township, or Clerks of the Townships in which any Police Village is situated, shall, at latest on the day previous to the day for opening the poll, deliver to the Returning Officer of such Police Village a list of the names according to the form by law prescribed in the case of other municipal elections, of the persons entitled to vote at Township municipal elections, in respect of real property situate, or income received in the said Police Village, or in the portion thereof in the Municipality of such Clerk, and shall attest the said list by his solemn declaration in writing under his hand. 36 V. c. 48, s. 492; 40 V. e. *Sched. A* (185).

Except where  
otherwise pro-  
vided, same  
proceedings,  
etc., to be had  
as at elections,  
etc., of council-  
lors, etc.

**578.** The various sections of this Act relating to the proceedings at the nomination and election of Township Councillors, including those relating to the questions to be put and oaths to be administered to electors, and as to the appointment of a Chairman or Returning Officer, in case the person appointed is absent, and also the provisions respecting controverted elections and for the prevention of corrupt practices, shall apply and be acted on, unless where a different provision is herein made, in the election of Police Trustees. 36 V. e. 48, s. 498; 40 V. c. 7, *Sched. A* (186).

Casting vote  
in case of ties.

**579.** In case a casting vote is required to determine an election, the Returning Officer, whether otherwise qualified or not, shall give a casting vote for one or more of such candidates, so as to decide the election, and except in such case the Returning Officer shall not vote at any such election. 36 V. c. 48, s. 495.

Powers of  
returning  
officer.

**580.** The Returning Officer shall have the like powers for the preservation of the peace as are given to Returning Officers and Deputy Returning Officers at municipal elections. 36 V. e. 48, s. 499.



**581.** The persons elected shall hold office until their successors are elected or appointed and sworn into office and hold their first meeting. 36 V. c. 48, s. 496. Term of office.

**582.** Every Returning Officer shall, on the day after the close of the poll, return the ballot papers, voters' list and other documents relating to the election, to the Clerk of the Township in which the Village is situated, or in case the Village lies in several Townships, then to the Clerk of the County, verified under oath before such Clerk, or before any Justice of the Peace for the County or Union of Counties in which the Village lies, as to the due and correct taking of the votes. 36 V. c. 48, s. 497. Returning officer to return ballot papers, &c., to clerk of township, verified under oath.

**583.** In case of any vacancy in the office of a Police Trustee, by death or otherwise, the remaining Trustee or Trustees shall, by writing to be filed with such Clerk as aforesaid, appoint a Trustee or Trustees to supply the vacancy. 36 V. c. 48, s. 500. Filling vacancies.

**584.** The Trustees of every Police Village, or any two of such Trustees, shall, by writing under their hands to be filed with the Clerk of the Township, or in case the Village lies in several Townships, with the Clerk of the County, appoint one of their number to be Inspecting Trustee. 36 V. c. 48, s. 501. Appointment of inspecting trustees.

### DIVISION III.—DUTIES OF POLICE TRUSTEES.

*Oaths of office and qualification.* Sec. 585.

*First meeting of.* Sec. 586.

*Expenses of, how provided for.* Secs. 587–590

*Trustees to be Health Officers.* Sec. 591.

*Regulations to be enforced by Trustees.* Sec. 592.

*Penalties for breach, how recovered.* Sec. 593.

*Neglect of duty by Trustees, how punishable.* Sec. 594.

*Limitation of suits for penalties.* Sec. 595.

**585.** Every Police Trustee shall take oaths of office and qualification in the same manner and within the time prescribed for Township Councillors, under like penalties in case of default. 36 V. c. 48, s. 502. Oaths of office and qualification.

**586.** The Trustees of every Police Village shall hold their first meeting at noon on the third Monday of the same January in which they are elected, or on some day thereafter at noon. 36 V. c. 48, s. 503. When first meeting to be held.

**587.** The Trustees, at any time previous to the first day of June, may require the Council of the Township or Townships in which the Police Village is situated to cause to be levied along with the other rates, upon the property liable to assessment in such Village, such sums as they may estimate to be required to Expenditure, how provided for.

cover the expenditures for that year in respect of matters coming within their duties, and to cover any balance for expenditures incurred during the year then last past, such sum not to exceed one cent in the dollar on the assessed value of such property. 36 V. c. 48, s. 504.

Where village  
in two or more  
townships.

**588.** In case the Village is situated in two or more Townships, the Trustees shall require a proportionate amount from each, according to the value of the property of the Village in each Township, as shown by the last equalized assessment rolls. 36 V. c. 48, s. 505.

Payment of  
orders given by  
trustees, etc.

**589.** The Township Treasurer shall from time to time, if he has moneys of the Municipality in his hands not otherwise appropriated, pay any order given in favour of any person by the Inspecting Trustee, or by any two of the Trustees, to the extent of the amount required to be levied as aforesaid, although the same may not have been then collected. 36 V. c. 48, s. 506.

When orders  
may be given.

**590.** No Trustee shall give any such order in favour of any person except for work previously actually performed, or in payment of some other executed contract. 36 V. c. 48, s. 507.

Trustees to be  
health officers.  
Rev. Stat.  
c. 190.

**591.** The Trustees of every Police Village shall be Health Officers within the Police Village, under *The Act respecting the Public Health*. 36 V. c. 48, s. 508.

Following  
regulations to  
be enforced.

**592.** The Trustees of every Police Village shall execute and enforce therein the regulations following :—

#### *Prevention of Fire.*

For providing  
ladders, etc.

1. Every proprietor of a house more than one story high, shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a penalty of one dollar for every omission; and a further penalty of two dollars for every week such omission continues. 36 V. c. 48, s. 509 (1)

Fire buckets.  
Penalty.

2. Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a penalty of one dollar for each bucket deficient. 36 V. c. 48, s. 509 (2).

As to furnaces,  
etc.

3. No person shall build any oven or furnace unless it adjoins and is properly connected with a chimney of stone or brick at least three feet higher than the house or building in which the oven or furnace is built, under a penalty not exceeding two dollars for non-compliance. 36 V. c. 48, s. 509 (3).

Stove pipes,  
etc.

4. No person shall pass a stove-pipe through a wooden or lathed partition or floor, unless there is a space of four inches

between the pipe and the wood-work nearest thereto; and the pipe of every stove shall be inserted into a chimney; and there shall be at least ten inches in the clear between any stove and any lathed partition or wood-work, under a penalty of two dollars. 36 V. c. 48, s. 509 (4). Penalty.

5. No person shall enter a mill, barn, outhouse or stable, with a lighted candle or lamp, unless well enclosed in a lantern, nor with a lighted pipe or cigar, nor with fire not properly secured, under a penalty of one dollar. 36 V. c. 48, s. 509 (5). Lights in  
stables, etc.  
Penalty.

6. No person shall light or have a fire in a wooden house or outhouse, unless such fire is in a brick or stone chimney, or in a stove of iron or other metal, properly secured, under a penalty of one dollar. 36 V. c. 48, s. 509 (6). Chimneys.  
Penalty.

7. No person shall carry fire or cause fire to be carried into or through any street, lane, yard, garden or other place, without having such fire confined in some copper, iron or tin vessel, under a penalty of one dollar for the first offence, and of two dollars for every subsequent offence. 36 V. c. 48, s. 509 (7). Securing fire  
carried  
through  
streets, &c.  
Penalty.

8. No person shall light a fire in a street, lane or public place, under a penalty of one dollar. 36 V. c. 41, s. 509 (8). Fire in streets  
Penalty.

9. No person shall place hay, straw or fodder, or cause the same to be placed, in a dwelling-house, under a penalty of one dollar for the first offence, and of five dollars for every week the hay, straw or fodder is suffered to remain there. 36 V. c. 48, s. 509 (9). Hay, straw,  
&c.  
Penalty.

10. No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a penalty of one dollar. 36 V. c. 48, s. 509 (10). Ashes, &c.  
Penalty.

11. No person shall place or deposit any quick or unslaked lime in contact with any wood of a house, outhouse or other building, under a penalty of one dollar, and a further penalty of two dollars a day until the lime has been removed, or secured to the satisfaction of the Inspecting Trustee, so as to prevent any danger of fire. 36 V. c. 48, s. 509 (11). Lime.  
Penalty.

12. No person shall erect a furnace for making charcoal of wood, under a penalty of five dollars. 36 V. c. 48, s. 509 (12). Charcoal  
furnaces.  
Penalty.

#### *Gunpowder.*

13. No person shall keep or have gunpowder for sale, except in boxes of copper, tin or lead, under a penalty of five dollars for the first offence, and ten dollars for every subsequent offence. 36 V. c. 48, s. 509 (13). Gunpowder,  
how to be  
kept.  
Penalty.



Not to be sold  
at night.

Penalty.

14. No person shall sell gunpowder, or permit gunpowder to be sold in his house, storehouse or shop, outhouse or other building, at night, under a penalty of ten dollars for the first offence, and of twenty dollars for every subsequent offence. 36 V. c. 48, s. 509 (14).

### *Nuisances.*

Certain  
nuisances  
prohibited.

15. No person shall throw, or cause to be thrown, any filth or rubbish into a street, lane or public place, under a penalty of one dollar, and a further penalty of two dollars for every week he neglects or refuses to remove the same after being notified to do so by the Inspecting Trustee, or some other person authorized by him. 36 V. c. 48, s. 509 (15).

Who to sue for  
penalties.

And before  
whom.

Conviction  
and levy of  
penalty.

**593.** The Inspecting Trustee, or in his absence, or when he is the party complained of, one of the other Trustees, shall sue for all penalties incurred under the regulations of police herein established, before a Justice of the Peace having jurisdiction in the Village and residing therein, or within five miles thereof; or if there be none such, then before any Justice of the Peace having jurisdiction in the Village; and the Justice shall hear and determine such complaint in a summary manner, and may convict the offender, upon the oath or affirmation of a credible witness, and cause the penalty, with or without costs, as he may see fitting, to be levied by distress and sale of the goods of the offender, to be paid over to the Path-master or Path-masters of the division or divisions to which the Village belongs, or to such of the said Path-masters as the Trustees may direct; and such Path-master or Path-masters shall apply the penalty to the repair and improvement of the streets and lanes of the Village, under the direction of the Trustees. 36 V. c. 48, s. 510.

Penalty for  
breach of duty  
by trustees.

**594.** Any Police Trustee who wilfully neglects or omits to prosecute an offender at the request of any resident householder of the Village offering to adduce proof of an offence against the regulations of police herein established, or who wilfully neglects or omits to fulfil any other duty imposed on him by this Act, shall incur a penalty of five dollars. 36 V. c. 48, s. 511.

When prosecu-  
tions to be  
commenced.

**595.** The penalties prescribed by the preceding section, or by that for the establishment of regulations of police, shall be sued for within ten days after the offence has been committed or has ceased, and not subsequently. 36 V. c. 48, s. 512.

### CONFIRMING AND SAVING CLAUSES.

Exceptions  
from repeal.

**596.** Nothing herein contained shall be taken or construed to affect or repeal so much of the schedules in either of the

Municipal Corporation Acts of 1849 and 1850 as defines the limits or boundaries of any Cities or Towns, being Schedule B of the Act of 1849, numbers two, three, four, six, seven, eight, nine, ten and eleven, and Schedule C of the same Act, numbers one, two and three, and Schedule B of the Act of 1850, numbers one, five, twelve, thirteen, fourteen and fifteen ; and also so much of Schedule D of the said Acts of 1849 and 1850 as relates to Amherstburg, and also so much of the two hundred and third section of the said Act of 1849, and so much of any other sections of either of the said Acts relating to any of the Schedules thereof as have been acted upon, or as are in force and remain to be acted upon at the time this Act takes effect, and all proclamations and special statutes by or under which Cities and other Municipalities have been erected, so far as respects the continuing the same and the boundaries thereof, shall continue in force. 36 V. c. 48, s. 513.

**597.** Nothing herein contained shall affect *The Act respecting the establishment of Municipal Institutions in the Districts of Algoma, Muskoka, Parry Sound, Nipissing, and Thunder Bay.* 36 V. c. 48, s. 514.

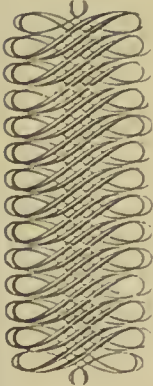
SCHEDULE "A."

(Section 119.)

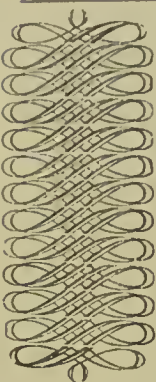
FORM OF BALLOT PAPER.

(1. In the case of Cities.)

FORM FOR MAYOR.

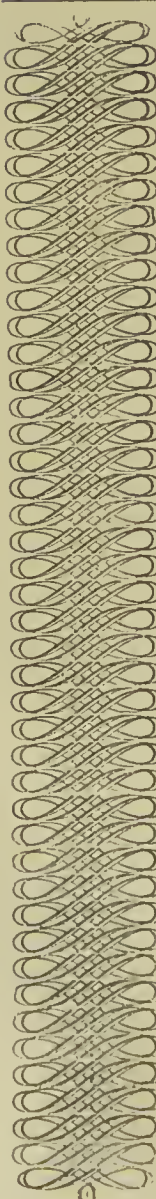
 Election for the Members of the Municipal Council of the City of _____, Ward No. _____, Polling Subdivision No. _____, day of January, 18 ____.		FOR MAYOR.
	1	<b>ALLAN.</b> Charles Allan, King Street, City of Toronto, Merchant.
	2	<b>BROWN.</b> William Brown, City of Toronto, Banker.

FORM FOR ALDERMEN.

 Election for the Members of the Municipal Council of the City of Ward No. , Polling Sub- division No. , day of January, 18		<i>FOR ALDERMAN.</i>
	<b>1</b>	<b>ARGO.</b> James Argo, City of Toronto, Gentleman.
	<b>2</b>	<b>BAKER.</b> Samuel Baker, City of To- ronto, Baker.
	<b>3</b>	<b>DUNCAN.</b> Robert Duncan, City of To- ronto, Printer.

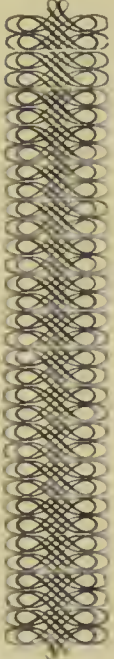
(2. In the case of Towns divided into Wards.)

FORM FOR MAYOR, REEVE AND DEPUTY REEVE.

 Election for the Members of the Municipal Council of the Town of Ward No. , Polling Subdivision No. , day of January, 18		<i>FOR MAYOR.</i>
	<b>1</b>	<b>THOMPSON</b> Jacob Thompson, of the Town of Barrie, Merchant.
	<b>2</b>	<b>WALKER.</b> Robert Walker, of the Town of Barrie, Physician.
		<i>FOR REEVE (if any).</i>
	<b>1</b>	<b>BROWN.</b> John Brown, of the Town of Barrie, Merchant.
	<b>2</b>	<b>ROBINSON.</b> George Robinson, of the Town of Barrie, Merchant.
		<i>FOR DEPUTY REEVE (if any).</i>
	<b>1</b>	<b>ARMOUR.</b> Jacob Armour, of the Town of Barrie, Pumpmaker.
	<b>2</b>	<b>BOYD.</b> Zachary Boyd, of the Town of Barrie, Tinsmith.




FORM FOR COUNCILLORS.


	Election for the Members of the Municipal Council of the	
	Town of , Ward No. , Polling	
	Subdivision No. day of January, 18	
		FOR COUNCILLOR.
	1	<b>BULL.</b> John Bull, of the Town of Barrie, Butcher.
2	<b>JONES.</b> Morgan Jones, of the Town of Barrie, Grocer.	
3	<b>McALLISTER.</b> Allister McAllister, of the Town of Barrie, Tailor.	
4	<b>O'CONNELL.</b> Patrick O'Connell, of the Town of Barrie, Milkman.	

(3. In the case of Townships divided into Wards.)

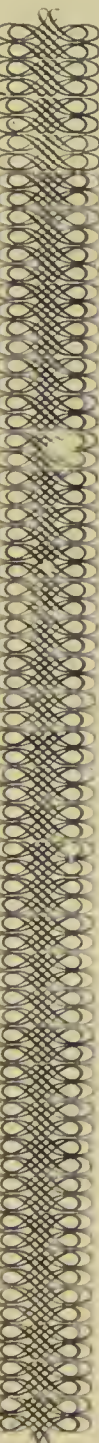
FORM FOR REEVE.

	Election of Members of the Municipal Council of the Township of	
	in the County of , Ward No. ,	
	day of January, 18	
		FOR REEVE.
1	<b>BARDELL, THOMAS,</b> Of the Township of Peel, Yeoman.	
2	<b>SNODGRASS, ALFRED,</b> Of the Township of Peel, Yeoman.	

FORM FOR COUNCILLORS.

 <p>Election of Members of the Municipal Council of the Township of _____, in the County of _____, day of January, 18 ____.</p> <p>Ward No. _____</p>		<i>FOR COUNCILLOR.</i>
	<b>1</b>	<b>BULL.</b> John Bull, of the Township of York, Doctor of Medicine.
	<b>2</b>	<b>JONES.</b> Morgan Jones, of the Township of York, Farmer.
	<b>3</b>	<b>McALLISTER.</b> Allister McAllister, of the Township of York, Farmer.
	<b>4</b>	<b>O'CONNELL.</b> Patrick O'Connell, of the Township of York, Lumber Merchant.
	<b>5</b>	<b>RUAN.</b> Malachi Ruan, of the Township of York, Farmer.
	<b>6</b>	<b>SCHULTZE.</b> Gottfried Schultze, of the Township of York, Farmer.
	<b>7</b>	<b>WASHINGTON.</b> George Washington, of the Township of York, Gentleman.

(4. In the case of Incorporated Villages and Townships not divided into Wards.)

	Election of Members of the Municipal Council of the Village (or Township) of , in the County of , Polling sub-Division No. day of January, 18 .	
		FOR REEVE.
	1	<b>BROWN.</b> John Brown, of the Village of Yorkville, Merchant.
	2	<b>ROBINSON.</b> George Robinson, of the Vil- lage of Yorkville, Physician.
		FOR DEPUTY REEVE (if any).
	1	<b>ARMOUR.</b> Jacob Armour, of the Village of Yorkville, Pumpmaker,
	2	<b>BOYD.</b> Zachary Boyd, of the Village of Yorkville, Tinsmith.
		FOR COUNCILLOR.
	1	<b>BULL.</b> John Bull, of the Village of Yorkville, Butcher.
	2	<b>JONES.</b> Morgan Jones, of the Village of Yorkville, Grocer.
	3	<b>McALLISTER.</b> Allister McAllister, of the Vil- lage of Yorkville, Tailor.
	4	<b>O'CONNELL.</b> Patrick O'Connell, of the Vil- lage of Yorkville, Milkman.

NOTE.—In any case where there are two or more Deputy Reeves, the ballot paper will make provision accordingly, naming them as first Deputy Reeve, second Deputy Reeve, &c.



## SCHEDULE "B."

(Sections 122 and 141.)

## DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right hand side, opposite the name or names of the candidate or candidates for whom he votes, thus ×

The voter will then fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (or Returning Officer, *as the case may be*) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot so folded to the Deputy Returning Officer (or Returning Officer, *as the case may be*) and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (or Returning Officer, *as the case may be*) who will, if satisfied of such inadvertence, give him another ballot paper.

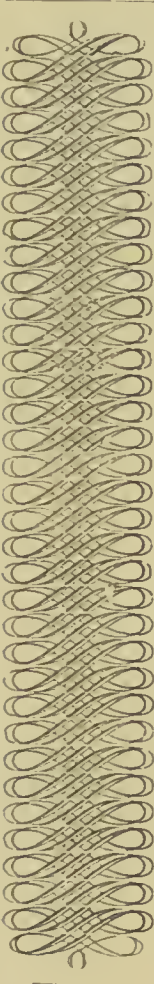
If the voter votes for more candidates for any office than he is entitled to vote for, his ballot paper will be void so far as relates to that office, and will not be counted for any of the candidates for that office.

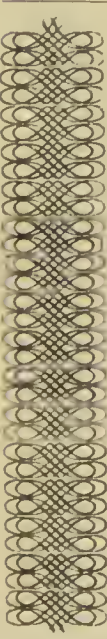
If the voter places any mark on the paper by which he may afterwards be identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the officer, he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

*In the following forms of Ballot Paper, given for illustration, the Candidates are, for Mayor, JACOB THOMPSON and ROBERT WALKER; for Reeve, JOHN BROWN and GEORGE ROBINSON; for Deputy Reeve, JACOB ARMOUR and ZACHARY BOYD; and for Councillors, JOHN BULL, MORGAN JONES, ALLISTER MCALLISTER and PATRICK O'CONNELL; and the elector has marked the first paper in favour of JACOB THOMPSON for Mayor, GEORGE ROBINSON for Reeve, and ZACHARY BOYD for Deputy Reeve, and has marked the second paper in favour of JOHN BULL and PATRICK O'CONNELL for Councillors:—*

---

		Election for the Members of the Municipal Council of the Town of , Polling Subdivision No. Ward No.	
		day of January, 18	
		FOR MAYOR.	
1		<b>THOMPSON.</b> Jacob Thompson, of the Town of Barrie, Merchant.	X
2		<b>WALKER.</b> Robert Walker, of the Town of Barrie, Physician.	
		FOR REEVE (if any).	
1		<b>BROWN.</b> John Brown, of the Town of Barrie, Merchant.	
2		<b>ROBINSON.</b> George Robinson, of the Town of Barrie, Merchant.	X
		FOR DEPUTY REEVE (if any.)	
1		<b>ARMOUR.</b> Jacob Armour, of the Town of Barrie, Pumpmaker.	
2		<b>BOYD.</b> Zachary Boyd, of the Town of Barrie, Tinsmith.	X

	Election for the Members of the Municipal Council of the Town of _____, Ward No. _____, Polling Subdivision No. _____ day of January, 18 ____	
	1	BULL. John Bull, of the Town of Barrie, Butcher.
	2	JONES. Morgan Jones, of the Town of Barrie, Grocer.
	3	McALLISTER. Allister McAllister, of the Town of Barrie, Tailor.
	4	O'CONNELL Patrick O'Connell, of the Town of Barrie, Milkman.

SCHEDULE C.

(Sections 125, 126, 128 and 296).

FORM IN WHICH THE VOTERS' LIST TO BE FURNISHED TO DEPUTY RETURNING OFFICERS IS TO BE PREPARED.

Column for mark indicating that the voter has voted.	NAMES OF THE VOTERS.	Description of Property in respect of which the voter is entitled to vote.	Freeholder, Householder, Tenant or Farmer's Son.	Residence of voter.	Objections.	Sworn or affirmed.	Refusal to swear or affirm.	Mayor and Reeve.	Councillor.	REMARKS.

NOTE.—In Cities, the column above headed "Mayor and Reeve" will be headed "Mayor;" and the column above headed "Councillors" will be headed "Aldermen."  
In Townships and Villages, the column above headed "Mayor and Reeve" will be headed "Reeve."  
39 V. c. 5, Sched. B.; 40 V. c. 12, s. 17.



## SCHEDULE "D."

(Section 131.)

## CERTIFICATE AS TO ASSESSMENT ROLL.

*Election to the Municipal Council of the*  
*of* , 18 .

I, A. B., Clerk of the Municipality of , in the County  
 of , do hereby certify that the assessment roll for this  
 Township (or as the case may be) of upon which the voters'  
 list to be used at this election is based, was returned to me by the Assessor  
 for said Township (or as the case may be) on the day of  
 , 18 , and that the same was finally revised and cor-  
 rected on the day of , 18 .

Dated this day of , 18 .  
 A. B.,  
 Clerk.  
 40 V. c. 12, Sched. B.

## SCHEDULE "E."

(Section 144.)

## FORM OF DECLARATION OF INABILITY TO READ, &amp;c.

I, A. B., of , being numbered on the voters' list, for  
 polling subdivision No. , in the City (or as the case may be) of ,  
 and County of , being a legally qualified elector for the said City  
 (or as the case may be) of , do hereby declare that I am unable to  
 read (or that I am from physical incapacity unable to mark a voting paper,  
 as the case may be).

The day of , A.D. 18 .  
 A. B. (His × mark.)  
 38 V. c. 28, Sched. D.

## SCHEDULE "F."

(Section 144.)

FORM OF ATTESTATION CLAUSE TO BE WRITTEN UPON OR ANNEXED TO THE  
DECLARATION OF INABILITY TO READ, &c.

I, C. D., the undersigned, being the Deputy Returning Officer for poll-  
 ing subdivision No. , for the City (or as the case may be) of , do  
 hereby certify that the above (or as the case may be) declaration, having  
 been first read to the above-named A. B., was signed by him in my pre-  
 sence with his mark.

(Signed) C. D.,  
 Deputy Returning Officer for Polling Sub-  
 Division No. , in the City (or  
 as the case may be) of .  
 Dated this day of , A.D. 18 .  
 38 V. c. 28, Sched. E.

## SCHEDULE "G."

(Sections 150, 307 and 308.)

## OATH OF DEPUTY RETURNING OFFICER AFTER THE CLOSING OF THE POLL.

I, C. D., the undersigned Deputy Returning Officer for polling sub-  
 division No. , of the City (or as the case may be) of , in the  
 County of , do solemnly swear (or if he is a person permitted by law

to affirm, do solemnly affirm) that to the best of my knowledge the annexed voters' list used in and for the said polling subdivision No. of the said City (or as the case may be), was so used in the manner prescribed by law, and that the entries required by law to be made therein were correctly made.

(Signed) C. D.,  
Deputy Returning Officer.  
this day of

Sworn (or affirmed) before me at  
A.D. 18 .

(Signed) X. Y.,  
Justice of the Peace.  
Or A. B.,  
Clerk of Municipality of .

NOTE.—The foregoing oath is to be annexed to the voters' list used at the election.

38 V. c. 28, Sched. F

SCHEDULE "H."

(Section 163.)

FORM OF STATUTORY DECLARATION OF SECRECY.

I, A. B., solemnly promise and declare that I will not at this election of members of the Municipal Council of the City (or as the case may be) of , disclose to any person or persons the name of any person who has voted, and that I will not in any way whatsoever unlawfully attempt to ascertain the candidate or candidates for whom any elector shall vote or has voted, and will not in any way whatsoever aid in the unlawful discovery of the same; and I will keep secret all knowledge which may come to me of the person for whom any elector has voted.

Made and declared before me at , this day of ,  
A.D. 18 .


C. D.,  
Justice of the Peace (or Clerk  
of the Municipality of ).

38 V. c. 28, Sched. G.

SCHEDULE "J."

(Section 288.)

FORM OF BALLOT PAPER.

 <div>18 ..... Voting on By-Law to (here insert object of the by-law), submitted to the Council of the</div>	FOR  The By-law.
	AGAINST  The By-law.

39 V. c. 35, Sched. A.

## SCHEDULE " K. "

(Sections 291 and 293.)

I, the undersigned *A. B.*, solemnly declare that I am a ratepayer of the Township (or as the case may be) of (the Municipality the Council of which proposed the by-law), and that I am desirous of promoting (or opposing, as the case may be) the passing of the by-law to (here insert object of the by-law), submitted to the Council of said Township (or as the case may be).

Made and declared before me this  
day of

(Signature)

A. B.

, A.D.

C. D.,

Head of Municipality.

39 V. c. 35, Sched. B.

## SCHEDULE " L. "

(Section 300.)

## DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter will go into one of the compartments, and with the pencil provided in the compartment, place a cross (thus X) on the right hand side, in the upper space if he votes for the passing of the by-law, and in the lower space if he votes against the passing of the by-law.



The voter will then fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (or Returning Officer, as the case may be) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot so folded to the Deputy Returning Officer (or Returning Officer, as the case may be) and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (or Returning Officer, as the case may be), who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter places on the paper more than one mark, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Deputy Returning Officer, (or Returning Officer, as the case may be), he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

In the following form of Ballot Paper, given for illustration, the Elector has marked his ballot paper in favour of the passing of the By-law :—

	Voting on By-law to (here insert object of the by-law) submitted to the Council of the	18	FOR The By-Law.	
			AGAINST The By-law.	



## SCHEDULE "M."

(Section 312.)

## FORM OF STATUTORY DECLARATION OF SECRECY.

I, *A. B.*, solemnly promise and declare that, at the voting on the by-law submitted to the electors by the Council of the Township (*or as the case may be*) of \_\_\_\_\_ (and the voting on which has been appointed for this day), I will not attempt in any way whatsoever unlawfully to ascertain the manner in which any elector shall vote or has voted, and will not in any way whatsoever aid in the unlawful discovery of the same; and I will keep secret all knowledge which may come to me, of the manner in which any elector has voted.

Made and declared before me at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 18 \_\_\_\_.

*C. D.*,  
Justice of the Peace (*or* Clerk  
of the Municipality of \_\_\_\_\_).

39 V. c. 35, Sched. D.

## CHAPTER 175.

An Act respecting the establishment of Municipal Institutions in the Districts of Algoma, Muskoka, Parry Sound, Nipissing and Thunder Bay.

## Organization of Townships :

Area and Population required,  
s. 1.

Preliminary Meeting, ss. 2-5.

Election of first Council, ss. 6-16.

Appointment of Clerk, &c., s. 17.

## Powers of Council :

General powers, s. 18.

As to assessment, ss. 19-20.

Appeals therefrom, ss. 21-26.

Assessments after the first, s. 27.

Collection of taxes, ss. 28, 29.

Arrears of taxes, s. 30.

Sale of lands, s. 31.

As to liquor licenses, s. 32.

As to licensing of auctioneers, &c.,  
s. 33.

As to constables, s. 34.

As to lock-up houses, s. 35.

Other powers, s. 36.

## Elections and Councils after the first :

Voters' qualification, s. 37.

Councillors' qualification, s. 38.

Election how conducted, s. 39.

Nomination meeting, ss. 40-42.

Polling, s. 43.

Tenure of office, s. 44.

Controverted elections, s. 45.

Vacancies in Council, s. 46.

Conduct of business, s. 47.

Reeve to be a Justice of the Peace,  
s. 48.

## Police villages :

Formation of, ss. 49, 50.

Electors, s. 51.

Trustees, s. 52.

Powers of Lieut.-Governor as to  
annexation or union, s. 53.

Special provisions as to Algoma,  
ss. 54, 55.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Municipalities  
may be or-  
ganized.

1. It shall be lawful for the inhabitants of any locality in the Districts of Muskoka, Parry Sound, Nipissing and Thunder

Bay, having a population of not less than one hundred persons within any Township, or within an area of not more than ten thousand acres, to organize themselves into a Township Municipality in respect of such Township or area. 36 V. c. 50, s. 31. *As to Algoma, see section 54.*

**2.** In order to constitute and establish a Municipality as above provided, it shall be lawful for the Stipendiary Magistrate of the District in which such locality is situate, upon the receipt of a petition in which the limits of the said proposed Municipality are defined, and signed by not less than thirty inhabitants of such locality, to call a meeting by public notice of said inhabitants, to consider the expediency of erecting a Municipality. 35 V. c. 37, s. 2.

Stipendiary Magistrate, upon petition, to call a public meeting to form Municipality.

**3.** Before the said Stipendiary Magistrate calls said meeting, it shall be the duty of those petitioning for said Municipality to deposit with him a sum sufficient to meet the expense of said meeting, as also of the election to be held, as hereinafter provided. 35 V. c. 37, s. 3.

Petitioners to make a deposit to meet expenses of the meeting and election.

**4.** The said Stipendiary Magistrate shall name some fit and competent person to preside at said meeting, who shall forthwith report the result of the same, with the votes given thereat, to said Stipendiary Magistrate, under oath, which may be administered by any Justice of the Peace. 35 V. c. 37, s. 4.

Magistrate to appoint chairman.

**5.** Upon receiving the report of said meeting for the establishment of a Municipality, the Stipendiary Magistrate shall fix a time and place for holding the first election in said proposed Municipality, and shall, in the notice providing for said election, name the Returning Officer who shall preside at said election; but no such Municipality shall be established unless at such meeting at least thirty freeholders or householders have voted in favour thereof. 35 V. c. 37, s. 5.

Magistrate to provide for first election.

**6.** The officers to be elected at the said election shall be one Reeve and four Councillors, who shall have the same qualification as voters, and shall constitute the Council of the Township, the Reeve being the head thereof. 40 V. c. 8, s. 53 (1).

Council, of what officers composed.

**7.** The persons qualified to vote at said election shall be male British subjects of the full age of twenty-one years, being householders resident in the locality proposed to be organized into a Municipality. 40 V. c. 8, s. 53 (2).

Qualification of voters.

**8.** At the time and place appointed by the Stipendiary Magistrate under the fifth section of this Act, the nomination of candidates shall be made in the same manner as is provided in respect to the nomination of candidates at municipal elections. 40 V. c. 8, s. 53 (3).

Nomination.

**Election by acclamation.** **9.** In case no more persons are nominated than are required to be elected, the Returning Officer shall declare such persons to be elected. 40 V. c. 8, s. 53 (4).

**Notice of time and place of holding poll.** **10.** In case a poll is required the Returning Officer shall adjourn the proceedings until the same day of the following week, and shall declare the place at which a poll will be opened in the locality, and shall forthwith post up in at least six of the most public and conspicuous places in the locality, a notice declaring that a poll will be held at such time and place. 40 V. c. 8, s. 53 (5).

**Poll book and how filled up.** **11.** The Returning Officer shall, previous to the opening of the poll, procure a poll book, and he shall enter in such book, in separate columns, the names of the candidates proposed and seconded at the nomination, and shall, opposite to such columns write the names of the electors offering to vote at the election and shall, in each column in which is entered the name of a candidate voted for by a voter, set the figure "1" opposite the voter's name. 40 V. c. 8, s. 53 (6).

**Casting vote.** **12.** In case a casting vote is required to determine an election, the Returning Officer, whether otherwise qualified or not, shall give a casting vote for one or more of such candidates, so as to decide the election, and except in such case, the Returning Officer shall not vote at any such election. 40 V. c. 8, s. 53 (7).

**Term of office of first member of Council.** **13.** The persons elected shall hold office until their successors are elected or appointed and sworn into office and hold their first meeting. 40 V. c. 8, s. 53 (8).

**Oath of voters.** **14.** The following shall be the oath to be administered to voters at such election :

You swear (or solemnly affirm) that you are A. B. ;  
 That you are a subject of Her Majesty by birth (or naturalization) ;  
 That you are of the full age of twenty-one years ;  
 That you are a householder in the locality now proposed to be organized into a Municipality ;  
 That you have not received anything nor has anything been promised you directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected with this election ;  
 That you have not directly or indirectly paid or promised anything to any person either to induce him to vote or refrain from voting at this election ;  
 So help you God.

40 V. c. 8, ss. 50 & 53 (9).

**Declaration of election.** **15.** After the said election, the said Returning Officer shall return to the said Stipendiary Magistrate the result of the same, and the said Stipendiary Magistrate shall, as soon as may be convenient thereafter, by public notice, declare the names of



the persons so elected, who shall forthwith enter upon the duties of their office; and the said Municipality shall from thenceforth be known as "The Corporation of the Municipality of \_\_\_\_\_, in the District of \_\_\_\_\_;" and the said Reeve and Councillors shall hold and continue in office until their successors are elected, as hereinafter provided. 35 V. c. 37, s. 8.

Name of Municipality.  
Tenure of office of Councillors.

**16.** The first meeting of the Council shall be held at a time and place to be fixed by the Stipendiary Magistrate. 35 V. c. 37, s. 9.

First meeting of Council.

**17.** The said Council shall at their first meeting, or as early as possible thereafter, appoint a Clerk, Treasurer and Collector, who shall hold office until removed or dismissed by said Council; and the said Council shall also fix the remuneration to be paid said officers, by by-law to be passed for that purpose. 35 V. c. 37, s. 10.

Appointment and remuneration of Clerk, Treasurer and Collector.

#### POWERS OF COUNCILS.

**18.** The said Council shall have power to pass by-laws for such purposes as are provided for regarding Townships under "*The Municipal Act*;" and the provisions of the said Act relating to Township Municipalities and their officers shall apply to the Municipalities erected under this Act, except where inconsistent with this Act. 35 V. c. 37, s. 18.

Council to pass certain by-laws.  
Rev. Stat. c. 174.

**19.** The said Council shall, as early as convenient after their first meeting, appoint one or more Assessors, who shall enter upon a roll to be provided for that purpose :

Assessors to be appointed to enter in assessment rolls,

(a.) The names of all the freeholders and householders in said Municipality, stating at the same time on the roll the amount of all the real and personal property owned by such persons respectively, and the actual value thereof, and whether the owners are resident or not

Freeholders and householders.

(b.) The names of all persons liable to taxation for income, or who, though exempt from taxation, have required their names to be entered on the said roll in respect of such income, stating at the same time the amount of such income.

Persons taxable for income.

(c.) The names of all farmers' sons entitled to be assessed under the provisions of "*The Assessment Act*."

Farmers' sons, Rev. Stat. c. 180, s. 20.

and the said Assessor or Assessors shall duly notify the person or persons so assessed by leaving a notice at his or her place of abode, or if a non-resident, by leaving the same at the nearest post-office, stating in such notice the particulars of said assessment. 35 V. c. 37, s. 11; 37 V. c. 3, s. 1; 40 V. c. 9.

Notice of assessment.

Rolls to be  
returned to  
Clerk.

**20.** The said roll shall be returned to the Clerk of the Municipality within such time as may be provided for by any by-law passed by said Council. 35 V. c. 37, s. 12.

Appeal against  
assessment.

**21.** The person or persons so assessed, if he complains of his assessment, shall, within one month after the time fixed for returning said roll, notify in writing the Clerk of his grounds of complaint. 35 V. c. 37, s. 13.

Council to  
hear and de-  
termine ap-  
peals.

**22.** The said Council shall, within two months after the time fixed for returning the roll, appoint a time and place for hearing said complaints, and shall, after hearing the parties complaining, as well as the Assessor or Assessors, and such evidence as may be adduced, alter or amend the roll accordingly. 35 V. c. 37, s. 14.

Appeal from  
the Council to  
Stipendiary  
Magistrate.

**23.** An appeal may be had from the decision of the said Council in that behalf to the Stipendiary Magistrate in the same manner as to the County Judge in other Municipalities, and the decision of the Stipendiary Magistrate shall be final. 37 V. c. 17, s. 1.

Notice of ap-  
peal.

**24.** Notice of appeal shall in all cases of appeal to the Stipendiary Magistrate be left with the Clerk of the Division Court of the Division in which such Municipality is situated, and copies thereof shall also be left with the Clerk of the Municipality; and such notice shall be so given and left within the time, and the said Clerks respectively shall, with regard to such appeal, perform all the duties and matters in the manner in that behalf required by law in the case of a like appeal to the County Judge as aforesaid. 37 V. c. 17, s. 2.

Powers of  
Stipendiary  
Magistrate.

**25.** The Stipendiary Magistrate shall have the like powers and shall perform the like duties in respect of such appeals as are performed by the County Judge in like case in other Municipalities. 37 V. c. 17, s. 3.

Revised roll to  
be the roll of  
the municipi-  
pality.

**26.** The said roll when finally revised by the Council, or by the Stipendiary Magistrate in case of appeal, shall be taken and held as the roll of the Municipality, for all purposes, until a new roll has been made as hereinafter provided. 35 V. c. 37 s. 15.

Council to fix  
time for mak-  
ing assess-  
ment.

**27.** The said Council shall by by-law fix the time for making the subsequent assessments in the Municipality at periods of not less than one nor more than three years; and the year for the purposes of this Act shall be considered as commencing on the first day of January thereof. 35 V. c. 37, s. 16; 37 V. c. 17, s. 5.

Council to levy  
rates.

**28.** The Council may, in each year after the final revision of the roll, pass a by-law for levying a rate on all the real and

personal property on said roll, of not more than two cents on the dollar, to provide for all the necessary expenses of said Municipality, and also such sum or sums as may be found expedient for the purposes mentioned in the eighteenth section of this Act. 35 V. c. 37, s. 17.

**29.** The said Council shall, by by-law, fix the time for the Collector making his return, and the said Collector shall have the same powers as are conferred on Collectors by "*The Assessment Act*." 35 V. c. 37, s. 19.

The Collector, his returns and powers.  
Rev. Stat. c. 180.

**30.** Arrears of taxes due to any Municipality formed under this Act shall be collected and managed in the same way as like arrears due to Municipalities in Counties; and the Treasurer and Reeve of such Municipality shall perform the like duties in the collection and management of arrears of taxes, as in Counties are performed by the Treasurers and Wardens thereof; and the various provisions of law relating to sales of land for arrears of taxes, or to deeds given therefor, shall, unless otherwise provided by this Act, apply to the said Municipalities and to sales of land therein for arrears of taxes due thereon, and to deeds given therefor. 38 V. c. 13, s. 9.

Collection of taxes and sales for taxes.

**31.** No sale of any lands for taxes shall take place in any such Municipality formed as aforesaid, except during the months of July, August, September or October; and the advertisement of the proposed sale, which under the one hundred and thirty-first and one hundred and thirty-second sections of "*The Assessment Act*" is required to be published in the *Ontario Gazette* and in a local newspaper, shall, when lands are to be sold in any such Municipality for arrears of taxes, be published also once a week, for at least four weeks, in such newspaper published in the City of Toronto as the Lieutenant-Governor in Council may designate. 38 V. c. 13, s. 10.

Mode of sale for arrears of taxes.

Notices, time for.

Rev. Stat. c. 180, ss. 131-132

**32.** The Council of any Municipality formed under this Act shall have the like authority in respect to taverns and shops within the Municipality and the licenses therefor as the Councils of Townships possess under "*The Liquor License Act*." 35 V. c. 37, s. 26; 39 V. c. 26, ss. 1 & 25.

Council to regulate tavern licenses.

Rev. Stat. c. 181.

**33.** Except in the cases of Townships and Villages attached or belonging to a County for municipal purposes, the Councils of Townships and incorporated Villages in Provisional Judicial, Temporary Judicial, and Territorial Districts shall have power to pass by-laws for the purposes mentioned in sub-sections two and three of the four hundred and sixty-fifth section of "*The Municipal Act*." 40 V. c. 8, s. 54.

Townships and Villages in Districts to have power to license auctioneers, etc.

Rev. Stat. c. 174, s. 465 (2) & (3).

**34.** The Council shall have the power to appoint one or more constables within the Municipality, whose duty it shall be to enforce and maintain law and order, and who shall perform all duties appertaining to constables; and the said Council shall

Appointment and removal of constables.



Fees to  
constables.

have power, from time to time, to remove the same, for any misconduct in their office, and shall also regulate the fees to be paid said constables: but such appointment and tariff of fees shall be subject to the approval and ratification of the Stipendiary Magistrate of the said District. 35 V. c. 37, s. 28.

Council may  
establish a  
lock-up house.

**35.** The said Council may establish and maintain a Lock-up House within the Municipality, and may establish and provide for the salary or fees to be paid the constable to be placed in charge of such Lock-up House: but the appointment of said constable shall be ratified by the Stipendiary Magistrate of the District; and the said Council shall have power to remove or suspend such constable for neglect of duty or other misconduct. 35 V. c. 37, s. 27.

Appointment  
of a constable  
thereto.

Certain sec-  
tions of Rev.  
Stat. c. 174,  
to apply.

**36.** In addition to the powers conferred upon said Township or Village Municipalities by this Act, the following sections, with their sub-sections of "*The Municipal Act*," shall be applicable to the said Municipalities, so far as they can be adapted to the same, viz.: sections two hundred and thirty-seven, two hundred and thirty-nine, two hundred and forty, two hundred and forty-four, two hundred and forty-six, two hundred and forty-seven, two hundred and fifty-four, two hundred and fifty-five, two hundred and fifty-six, two hundred and fifty-seven, two hundred and fifty-eight, two hundred and sixty-five, two hundred and sixty-six, two hundred and sixty-seven, two hundred and sixty-eight, two hundred and sixty-nine, two hundred and seventy, two hundred and seventy-two, two hundred and eighty-two, two hundred and eighty-four, three hundred and nineteen, three hundred and twenty, three hundred and twenty-one, three hundred and twenty-two, three hundred and twenty-three, three hundred and twenty-four, three hundred and twenty-eight, three hundred and twenty-nine, three hundred and thirty-seven, three hundred and ninety-four, three hundred and ninety-nine, four hundred and one, four hundred and two, four hundred and three, four hundred and fifty-four, four hundred and eighty-nine, and four hundred and ninety-one. 35 V. c. 37, s. 33; 40 V. c. 8, s. 54.

Secs. 237, 239,  
240, 244, 246,  
247, 254, 255,  
256, 257, 258,  
265, 266, 267,  
268, 269, 270,  
272, 282, 284,  
319, 320, 321,  
322, 323, 324,  
328, 329, 337,  
394, 399, 401,  
402, 403, 454,  
489, 491.

#### ELECTIONS AFTER THE FIRST.

Who qualified  
to vote.

**37.** The persons qualified to vote at every election after the first shall be:

Real property.

1. Every male freeholder and resident householder whose name appears in the revised assessment roll upon which the voters list used at the election is based, for said Municipality, and who is of the full age of twenty-one years, and a naturalized or natural-born subject of Her Majesty;

Income.

2. Every male person who resides at the time of the election

in the Municipality in which he tenders his vote, and has resided therein continuously since the completion of the last revised assessment roll of the Municipality, and derives an income from some trade, calling, office or profession of not less than four hundred dollars annually, and is assessed for such income in and by the revised assessment roll upon which the voters list used at the election is based, of the Municipality, and possesses the qualifications required by law other than in respect of property. 35 V. c. 37, s. 21; 36 V. c. 48, s. 77; 37 V. c. 3, s. 1; 37 V. c. 17, s. 9.

3. Every person who is a farmer's son within the meaning of "*The Municipal Act*," and entitled as such to vote at municipal elections, under the provisions of said Act. See 40 V. c. 9. Farmers' sons  
Rev. Stat. c.  
174, s. 76.

38. The persons qualified to be elected as members of the Council in any Municipality after said first election, shall, in addition to the qualification required for voters, be assessed in the said assessment roll for at least two hundred dollars freehold or four hundred dollars leasehold. 35 V. c. 37, s. 22. Qualifications  
of Councillor.

39. All elections after the first shall be conducted in the same manner as is provided for municipal elections in Townships in Ontario, except so far only as is otherwise enacted by this Act. 37 V. c. 17, s. 7, *part*. Place and con-  
duct of elec-  
tion.

40. A meeting of the electors shall take place for the nomination of candidates for the offices of Reeve and Councillors of the Municipalities formed in accordance with the provisions of this Act, on the last Monday in December, annually, at such place therein as may from time to time be fixed by by-law of the Council. 37 V. c. 17, s. 7, *part*. Nomination of  
Reeve and  
Councillors.

41. When the last Monday in December happens to be Christmas Day, the nomination of candidates for the office of Reeve and Councillors in each of the said Municipalities, shall take place on the preceding Friday, at the times and places, and in the manner prescribed by law. 39 V. c. 7, s. 20. Nomination  
day falling on  
Christmas  
Day.

42. The Clerk of the Municipality shall preside at the meeting for the nomination of candidates for the offices of Reeve and Councillors for such Municipality, and shall be the Returning Officer at all elections after the first election. 37 V. c. 17, s. 8. Clerk to pre-  
side at nomi-  
nation.  
  
Returning  
officer.

43. The electors of every such Municipality shall elect annually, on the first Monday in January, the members of the Council of the Municipality, except such members as may have been elected by acclamation on the nomination day. 37 V. c. 17, s. 7, *part*. Polling day.

44. The persons so elected shall hold office until their successors are elected and sworn into office. 37 V. c. 17, s. 7, *part*.

Trial of controverted elections.

**45.** The provisions of law for the trial of controverted elections, applicable to Councillors of Townships in Counties, shall apply to the members of the Council of any Municipality formed under this Act. 38 V. c. 13, s. 12.

Vacancy in Council, how filled.

**46.** In case the seat of any member of the Council becomes vacant by death, resignation or a continued absence from meetings of the Council for a period of six months, it shall be the duty of the Council to direct a new election to be held for the purpose of supplying such vacancy. 35 V. c. 37, s. 23.

Who to preside at meetings of the Council.

**47.** The Reeve of the said Council shall preside at all meetings thereof, and, in the event of his absence, the Council shall choose from among their number, a person to preside, and, in such case, the said person so presiding shall have all the powers and exercise all the functions appertaining to the Reeve. 35 V. c. 37, s. 24.

Reeves to be Justices of the Peace.

**48.** The Reeves of the various Municipalities shall be *ex officio* Justices of the Peace, and shall have the like powers as are exercised by other Justices of the Peace in this Province. 35 V. c. 37, s. 25.

#### POLICE VILLAGES.

Erection of police villages.

**49.** On the petition of thirty of the inhabitants of a Village in any of the said Territorial Districts containing one hundred inhabitants at least, the Lieutenant-Governor in Council may, by proclamation, erect the same into a Police Village, and assign thereto such limits as seem expedient. 35 V. c. 37, s. 29.

Rev. Stat. c. 174, ss. 562-595, to apply to police villages.

**50.** The provisions of "*The Municipal Act*" relating to Police Villages or their officers, shall apply to the Police Villages erected under the preceding section, except where inconsistent with this Act. 35 V. c. 37, s. 30.

Qualification of electors, and elections in police villages.

**51.** The electors of any such Police Village shall be required to have the same qualification in respect to such Village as the electors of the said Township Municipalities; and the elections for Police Trustees shall be held on the same days and in the same manner as elections for Councillors. 35 V. c. 37, s. 31.

Qualification of police trustees.

**52.** Any elector of such Police Village resident therein may be elected as a Police Trustee, unless disqualified on account of holding an office inconsistent with the position of Police Trustee. 35 V. c. 37, s. 32.

Lieutenant-Governor in Council may annex to certain municipalities territory adjacent thereto, and form two into one.

**53.** The Lieutenant-Governor in Council may, by proclamation, annex to any Municipality formed as aforesaid, any territory lying adjacent thereto, and may, upon the application of two or more adjacent Municipalities, form the same, either with or without additional area, into one Municipality.

**2.** In any such case the Lieutenant-Governor may fix the time at which the annexation or union shall take effect, and also the time when the first election shall take place, and the name by which the Municipality shall be called. 38 V. c. 13, s. 11.



ALGOMA.

**54.** Except so far as regards any territory comprised in the Municipality of Shuniah, this Act shall apply to the District of Algoma, except that the duties which by the preceding sections of this Act are required to be performed by the Stipendiary Magistrate shall, in that portion of Algoma which is not included within the District of Thunder Bay, be performed by the Judge of the District Court of Algoma. 38 V. c. 13, s. 13; 36 V. c. 50, s. 28.

Act to apply to Algoma.

**55.** If any dispute at any time arises as to the validity of any by-law, or resolution, or order of any Municipality in the District of Algoma, the same shall be referred to the Judge of the District of Algoma, whose decision thereon shall be final, and the said Judge shall have the power of enforcing his decision, if necessary, by a writ or writs under his hand and seal, to be directed to the Sheriff of the said District, adapted to the purposes intended. 33 V. c. 25, s. 25.

Judge to decide disputes as to validity of by-laws, etc.

## 2. *Miscellaneous Municipal Matters.*

- CHAP. 176.—Registration of Debentures, p. 219.  
 “ 177.—Calling and Holding of Public Meetings, p. 225.  
 “ 178.—Exemption of Firemen from certain duties, p. 232.  
 “ 179.—Support of Destitute Insane Persons, p. 234.

## CHAPTER 176.

An Act respecting the Registration of Municipal and certain other Debentures.

Short title, s. 1.	Penalties, s. 12.
Returns to Registrar, s. 2.	Sanction of Lieutenant-Governor to by-laws, s. 10.
Provincial Secretary, s. 3.	Railway, etc., debentures not within the Act, s. 11.
Duties of Provincial Secretary, s. 4.	Debenture not impeachable against bona fide holder for value without notice, s. 13.
Registrar, ss. 5, 6.	Debentures good for face value, C. S. C. c. 84, s. 16.
By-laws, how to be verified, s. 7.	
Books to be open to inspection, s. 8.	
Registrar's fees, s. 9.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

**1.** This Act may be cited as "*The Debentures Registration Act.*"

Certified copies of all by-laws under which debentures are intended to be issued, to be transmitted to the proper Registrar, etc.

**2.** It shall be the duty of the Clerk or person acting as such, of every Municipal or Provisional Municipal Corporation, and of the Clerk or Secretary, or person acting as such, of any other corporate body, within two weeks after the final passing of any by-law made and passed by such Corporation for the purpose of raising money by the issue of debentures, and before the sale or contract for sale of any such debentures issued or intended to be issued there under, to transmit to the Registrar of the County or other Registration Division in which such Municipal Corporation or other corporate body, or its principal office, is situated, a copy duly certified, as hereinafter provided, of each and every by-law made and passed as aforesaid by such Municipal or Provisional Municipal Corporation, or other corporate body, together with a return in the form specified in the Schedule A, hereunto annexed, showing the title or objects of each such by-law, the amounts to be raised thereunder, the number of debentures to be issued thereunder, the amounts thereof respectively, the dates at which the same respectively fall due, the assessed value of the real and personal estate belonging to such Corporation or Company, the assessed value of the real and personal estate of the Municipality, and the amount of the yearly rate in the dollar to liquidate the same. C. S. C. c. 84, s. 2.

Return to be made to Provincial Secretary.

**3.** The Clerk, or person acting as such, of every Municipal or Provisional Municipal Corporation, and the Clerk or Secretary, or person acting as such, of any other corporate body (excepting such as are in and by this Act excepted), shall, on or before the tenth day of January in each year, transmit to the Provincial Secretary a return made up to the thirty-first day of December then last past, in the form specified in the Schedule B hereunto annexed, showing the name of the Municipal or Provisional Municipal Corporation, or other corporate body,—the amount of its debt, if any, distinguishing the amount of debt incurred under the Municipal Loan Fund Acts, if any, from the remainder of its debt—the assessed value of the real and personal estate belonging to such Corporation or Company, or the assessed value of the real and personal estate of the Municipality, or both, as the case may be—the total rates, if any, per dollar, assessed on such last mentioned property for all purposes, and the amount of interest due by the Corporation or Company, or by the Municipality. C. S. C. c. 84, s. 3.

Provincial Secretary to compile tables from such returns and lay them before the Legislative Assembly.

**4.** The Provincial Secretary shall annually compile, from the returns so transmitted, a statement in tabular form, showing the names of the several Corporations in one column, and the contents of their respective returns against their respective names in other columns, corresponding to those in the said Schedule B; and he shall cause copies thereof to be laid before the Legis-

lative Assembly within the first fifteen days of the Session next after the completion of the same, or if the Legislative Assembly is sitting when the same is completed, as soon as may be after such completion. C. S. C. c. 84, s. 4.

5. The Registrar of the County or other Registration Division in which such Municipal Corporation or other corporate body or its principal office is situated, shall receive and file in his office the several by-laws required to be transmitted to him as hereinbefore provided, and shall cause to be entered in a book provided for that purpose, true and correct copies of the returns hereinbefore required by the second section of this Act. C. S. C. c. 84, s. 5.

Registrar to file such by-laws, and to keep books with copies of the returns required by section 2.

6. The Registrar of each County or other Registration Division, as aforesaid, shall provide a book of registration, wherein he shall, at the request of the original holder or holders, or any subsequent transferee or transferees thereof respectively, from time to time, cause to be entered and registered the name of such original holder or holders, or of such subsequent transferee or transferees, and such holder or last registered transferee in such book of registration shall be deemed *prima facie* the legal owner and possessor thereof. C. S. C. c. 84, s. 6.

If requested, the registrar may register the name of such holder of any debenture, and registration to be *prima facie* evidence.

7. All by-laws mentioned in the second section of this Act shall be certified and authenticated by the seal of the Municipal Corporation, and by the signature of the head thereof, or of the person presiding at the meeting at which the original by-law has been made and passed, and also by that of the Clerk of such Corporation; and all by-laws of other corporate bodies shall be attested and authenticated by the seal of such corporate body and by the signature of the head thereof. C. S. C. c. 84, s. 7.

Mode in which by-laws shall be certified.

8. The certified copies of all by-laws hereinbefore referred to and transmitted as aforesaid, and also the returns in the second section of this Act mentioned, and the book or books of entry of such returns and of registration, shall be open to public inspection and examination, and access had thereto at all seasonable times and hours upon payment of certain fees as hereinafter provided. C. S. C. c. 84, s. 8.

By-laws, returns and books of entry in Registry Office, to be open to inspection.

9. The following fees shall be paid to Registrars under this Act:

Fees to be payable under this Act.

	\$	cts.
For registration of each certified copy of By-laws, the sum of	2	00
For registration of any Returns as prescribed in Schedule A, for each such Return, the sum of	1	00
For registration of the name of holder or transferee of any number of debentures not exceeding five, the sum of	0	25
Over five and not exceeding fifteen, the sum of	0	50



	\$ cts.
Over fifteen and not exceeding thirty, the sum of..	0 75
Upwards of thirty, the sum of.....	1 00
For making search, inspecting each copy of By-law, and examining entries connected therewith.....	1 00
C. S. C. c. 84, s. 9.	

Meaning of term "final passing," as to by-laws to be submitted to the Lieutenant-Governor.

**10.** In all such cases as require the submission of any by-law or by-laws to the Lieutenant-Governor of this Province for his sanction, such sanction must first be obtained to bring the same within the meaning of the words "final passing thereof" in the second section of this Act. C. S. C. c. 84, s. 10.

Act not to extend to railway companies or ecclesiastical corporations, &c.

**11.** The foregoing sections of this Act shall not extend to the by-laws, or debentures thereunder, of any Railway Company or any Ecclesiastical Corporation heretofore incorporated or hereafter to be incorporated, or the debentures issued by any religious denomination in its corporate capacity. C. S. C. c. 84, s. 11.

Penalty on officers of corporations neglecting their duties under this Act.

**12.** Any Clerk or Secretary as aforesaid, of any Municipality or corporate body as aforesaid, who neglects to perform, within the proper period, any duty devolving upon him in virtue of this Act, shall be subject to a fine of two hundred dollars, or, in default of payment thereof, to imprisonment until such fine is paid, but for a period not exceeding twelve months, to be prosecuted for in the name of the Attorney-General of Ontario, in any Court of competent jurisdiction. C. S. C. c. 84, s. 12.

When not impeachable.

**13.** Any such debenture issued as aforesaid shall not be impeachable in the hands of a *bona fide* holder for value, without notice. C. S. C. c. 84, s. 16.

[Section 16 of C. S. C. c. 84, is as follows:—

Good for full amount though discounted at a less sum.

16. Any such debenture issued as aforesaid shall be valid and recoverable to the full amount thereof, notwithstanding its negotiation by such Corporation at a rate less than par or at a rate of interest greater than six per centum per annum, and shall not be impeachable in the hands of a *bona fide* holder for value without notice. 18 V. c. 80, s. 4.]

SCHEDULE "A."

(Section 2.)

RETURN as required by Chapter 176 of The Revised Statutes of Ontario, entitled, "*An Act respecting the Registration of Municipal and certain other Debentures*," of Debentures issued by *(here insert title of Corporation)*.

1	2	3	4	5	6	7
Title or Objects of the By-Law.	Amount to be raised.	Number of Debentures and Amounts.		Assessed value of Real and Personal Estate belonging to such Corporation ( <i>or Com- pany</i> ).	Assessed value of the Real and Personal Estate of the Muni- cipality of (Town, Township, County, City or Village, <i>as the case may be</i> ).	Amount of yearly rate in the \$ to liquidate same.
		Number.	Amounts.			
			Dates when Payable.	Real. Personal.	Real. Personal.	

Dated at

this

day of

A. D. 18





## CHAPTER 177.

## An Act respecting Public Meetings.

Public Meetings defined, ss. 1-3.  
 What notices required to constitute,  
 ss. 4-8.  
 Sheriff, Mayor, or Magistrates to  
 attend meeting, s. 9.  
 Order of proceedings at, s. 10.  
 Powers of Chairman, ss. 11, 12.  
 Special constables, ss. 13, & C. S.  
 C. c. 82, s 14.  
 Limitation of actions for things  
 done under this Act, s. 14.

Provisions of C. S. C, c. 82. See pp.  
 229-3 ).  
 Magistrates may disarm persons,  
 s. 15.  
 Weapons to be returned, ss. 16,  
 17.  
 Battery, how punishable, s.  
 18.  
 No arms to be carried, s. 19.  
 Lying in wait, do. s. 20.

**I**T being the undoubted right of Her Majesty's subjects to meet together in a peaceable and orderly manner, not only when required to do so in compliance with the express direction of law, but at such other times as they may deem it expedient so to meet for the consideration and discussion of matters of public interest, or for making known to their Gracious Sovereign or Her Representative in this Province, or to both or either Houses of the Imperial or Dominion Parliaments, or the Provincial Legislature, their views respecting the same, whether such be in approbation or condemnation of the conduct of public affairs;

Preamble.

And it being expedient to make legislative provision for the calling and orderly holding thereof, and the better preservation of the public peace at the same;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

**1.** All public meetings of the inhabitants or of any particular class of the inhabitants of any District, County, Riding, City, Town, Township or Ward in this Province, which are required by law, and summoned or called in the manner hereinafter by the fourth section of this Act prescribed, shall be and be deemed to be public meetings within the meaning of this Act. C. S. C. c. 82, s. 1.

"Public meetings" within the protection of this Act.

**2.** All public meetings of the inhabitants or of any particular class of inhabitants of any District, County, Riding, City, Town, Township or Ward in this Province, called by the Sheriff of any such District or County, or by the Mayor or other chief municipal officer of any such City or Town respectively, in the manner

"Public meetings" called by Sheriff or two magistrates to be within the protection of this Act.

hereinafter by the fifth section of this Act prescribed, upon the requisition of any twelve or more of the freeholders, citizens or burgesses of such District, County, Riding, City, Town, Township or Ward, having a right to vote for members to serve in Legislative Assembly in respect of the property held by them within such District, County, Riding, City, Town, Township or Ward respectively, and all such meetings called by any two or more Justices of the Peace resident in any such District, County, Riding, City, Town, Township, or Ward respectively, upon a like requisition from twelve or more of such freeholders, citizens or burgesses, shall be and be deemed to be public meetings within the meaning of this Act. C. S. C. c. 82, s. 2.

**3.** All public meetings of the inhabitants 'or of any particular class of the inhabitants of any District, County, Riding, City, Town, Township or Ward in this Province, declared to be public meetings within the meaning of this Act by any two Justices of the Peace resident in such District, County, Riding, City, Town, Township or Ward, in the manner hereinafter by the sixth section of this Act prescribed, shall be and be deemed to be public meetings within the meaning of this Act. C. S. C. c. 82, s. 3.

Manner of bringing meetings required by law within protection of this Act.

**4.** In every notice or summons for calling together any such public meeting as in the first section of this Act is mentioned, there shall be contained a notice that such meeting, and all persons attending the same, will be within the protection of this Act, and requiring all persons to take notice thereof and govern themselves accordingly.

Notice.

**2.** Such part of the notice or summons may be in the form or to the effect following:

And be it known, that the meeting to be held in pursuance hereof is called in conformity with the provisions of Chapter 177 of "*The Revised Statutes of Ontario*," entitled "*An Act respecting Public Meetings*;" and that the said Meeting and all persons attending the same will therefore be within the protection of the said Act, of all which premises, all manner of persons are hereby in Her Majesty's name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

C. S. C. c. 82, s. 4.

Manner of bringing meetings called by Sheriffs, etc., within the protection of this Act.

**5.** The notice to be issued by the Sheriff of any County, or by the Mayor or other chief municipal officer of any City or Town, or by two or more Justices of the Peace, for calling any such public meeting as in the second section of this Act is mentioned:

1. Shall be issued at least three days before the day upon which such meeting is appointed to be held; and shall set forth

(a) The names of the requisitionists, or of a competent number of them;

(b) That such meeting is called in conformity with the provisions of this Act; and

(c) That such meeting, and all persons attending the same, will be within the protection of this Act, and that all persons are required to take notice thereof and govern themselves accordingly.

2. Such notice may be in the form or to the effect of Schedule A to this Act. C. S. C. c. 82, s. 5.

6. Upon information on oath, before any Justice of the Peace, that any public meeting of the inhabitants, or of any particular class of the inhabitants of any District, County, Riding, City, Town, Township or Ward, not being a public meeting of the description mentioned in the first section of this Act, or a public meeting called in the manner referred to in the second section of this Act, is appointed to be held at any place within the jurisdiction of such Justice, and that there is reason to believe that great numbers of persons will be present at such meeting: any two Justices of the Peace having jurisdiction within the District, County, City or Town within which such Meeting is appointed to be held, may give notice of such Meeting, and may declare the same, and declare all persons attending the same, within the protection of this Act, and require all persons to take notice thereof and govern themselves accordingly, and such notice or declaration may be in the form of Schedule B to this Act. C. S. C. c. 82, s. 6.

By private persons within the protection of this Act.

7. Every Sheriff, Mayor, Justice of the Peace, or other person who calls any such public meeting as is mentioned in the second section of this Act, shall give public notice thereof, as extensively as he reasonably can, by causing to be posted and distributed throughout the District, County, Riding, City, Town, Township or Ward for which the same is called, a sufficient number of printed or written copies of the notice calling the same. C. S. C. c. 82, s. 7.

Sheriff or Justices, &c., calling meetings on requisition to give certain notices.

8. The Justices of the Peace who declare any public meeting about to be held to be a public meeting within the protection of this Act, as in the third section of this Act mentioned, shall give public notice of its having been so declared, by causing to be posted and distributed throughout the District, County, Riding, City, Town, Township, or Ward for which the same is so called, as many printed or written copies of the notice or declaration issued by them in that behalf as may be reasonably necessary for that purpose, and as the time appointed for the holding such meeting reasonably admits. C. S. C. c. 82, s. 8.

Justices declaring meetings to be within protection of Act to give certain notices.

9. Every Sheriff, Mayor, Justice of the Peace, or other person who either calls any public meeting under the provisions of

Sheriffs and Justices calling and declar-



ing meeting  
under this Act  
to attend the  
same.

the second section of this Act, or declares any meeting called by others to be a public meeting within the protection of this Act, under the provisions of the third section hereof, shall attend such meeting, and whether such Sheriff, Mayor, Justice of the Peace, or other person is appointed by such public meeting to take the chair and preside over the same, or not, every such Sheriff, Mayor, Justice of the Peace, and other person shall continue at or near the place appointed for holding such public meeting, until the same has dispersed, and shall afford all such assistance as is in his power in preserving the public peace thereat. C. S. C. c. 82, s. 9.

Chairman to  
read requisition and make  
proclamation  
for the preservation of order.

**10.** Every person required by law, or who has, in the usual way, been appointed at such public meeting to preside over the same, shall commence the proceedings of the meeting by causing the summons or notice calling the meeting, or the declaration whereby the same is declared to be a public meeting, under the protection of this Act, to be publicly read. C. S. C. c. 82, s. 10.

Chairman to  
remove disorderly persons,  
and convict on  
view of disturbance.

**11.** Any person required by law, or who has been appointed at such meeting in the usual way to preside over the same, shall cause order to be kept at such meetings, and for that purpose may, by oral direction or otherwise, cause any person who attempts to interrupt or disturb such meeting to be removed to such a distance from the same as may effectually prevent such interruption or disturbance, and by an instrument in writing under his hand, on his own view, may adjudge any person who so attempts to interrupt or disturb such meeting guilty of such attempted interruption or disturbance, upon which conviction any Justice of the Peace may, by warrant under his hand, forthwith commit such person to the Common Gaol of the County or District, or to any other place of temporary confinement that such Justice may appoint, for any period not exceeding forty-eight hours from the time of commitment signed, and until the lawful costs of the constable and gaoler for the arrest, transmission and detention of such person are paid or satisfied. C. S. C. c. 82, s. 11.

To call on  
Justices of the  
Peace, constables, &c.,  
for assistance.

**12.** For the purpose of keeping the peace and preserving good order at every such public meeting, the person required or appointed to preside at such meeting as aforesaid may command the assistance of all Justices of the Peace, constables, and other persons to aid and assist him in so doing. C. S. C. c. 82, s. 12.

Justices to  
swear in special constables  
on requisition  
of Chairman.

**13.** Any Justice of the Peace present at any such meeting, upon the written application of the person so required or appointed to preside at the same, shall swear in such a number of special constables as such Justice may deem necessary for the preservation of the public peace at such meeting. C. S. C. c. 82, s. 13.

14. Every action to be brought against any person for anything by him done under authority of this Act, or chapter eighty-two of the Consolidated Statutes of Canada, must be brought within twelve months next after the cause of such action accrued. C. S. C. c. 82, s. 21.

Actions to be brought within 12 months.

[Sections 14 to 20 of C. S. C. c. 82, enact as follows :—

14. If any person between the ages of eighteen and sixty, upon being required to be sworn in as a special constable by any Justice of the Peace, upon any such occasion, omits or refuses to be sworn, unless for some cause to be allowed by such Justice at the time, such person shall be guilty of a misdemeanor, and such Justice may thereupon record the refusal of such person so to be sworn, and adjudge him to pay a fine of not more than eight dollars, which fine shall be levied and made by the like process as other fines imposed by summary proceedings before Justices of the Peace, or such person may be proceeded against by indictment or information as in other cases of misdemeanor. 7 V. c. 7, s. 14.

Persons of certain ages refusing to be sworn in, guilty of a misdemeanor.

15. Any Justice of the Peace within whose jurisdiction any such meeting is appointed to be holden, may demand, have and take, of and from any person attending such meeting, or on his way to attend the same, any offensive weapon, such as fire-arms, swords, staves, bludgeons or the like, with which any such person is so armed, or which any such person has in his hands or possession; and every such person who upon such demand declines or refuses to deliver up, peaceably and quietly, to such Justice of the Peace any such offensive weapon as aforesaid, shall be deemed guilty of a misdemeanor, and such Justice may thereupon record the refusal of such person to deliver up such weapon, and adjudge him to pay a fine of not more than eight dollars, which fine shall be levied and made by the like process as other fines imposed by summary proceedings before Justices of the Peace, or such person may be proceeded against by indictment or information as in other cases of misdemeanor, but such conviction shall not interfere with the power of such Justice or any other Justice to take such weapon or cause the same to be taken from such person without his consent and against his will, by such force as may be necessary for that purpose. 7 V. c. 7, s. 15.

Justices of the Peace may disarm persons.

16. Upon reasonable request to any Justice of the Peace to whom any such weapon has been peaceably and quietly delivered as aforesaid, made on the day next after the meeting has finally dispersed, and not before, such weapon shall, if of the value of one dollar or upwards, be returned by such Justice of the Peace to the person from whom the same was received. 7 V. c. 7, s. 16.

Weapons to be returned to parties in certain cases.

17. No such Justice of the Peace shall be held liable to return any such weapon, or make good the value thereof, in case the same by unavoidable accident has been actually destroyed or lost out of the possession of such Justice without his wilful default. 7 V. c. 7, s. 17.

If accidentally lost, &c.

18. Any person convicted of a battery committed within the distance of two miles of the place appointed for the holding of such public meeting, and during any part of the day whereon any such meeting has been appointed to be held, shall be punishable by a fine of not more than one hundred dollars, and imprisonment for not more than three months, or either, in the discretion of the Court, whose duty it may be to pass the sentence of the law upon such person. 7 V. c. 7, s. 17.

Persons guilty of battery within two miles of the meeting to be punished by certain penalties.

19. Except the High Sheriff, Under Sheriff, and Justices of the Peace for the District or County, or the Mayor and High Bailiff and Justices of the Peace for the City or Town respectively in which any such meeting is to be held, and the constables and special constables employed by them, or any of

No one to approach armed within two miles of meeting.

them, for the preservation of the public peace at such meeting, no person shall, during any part of the day upon which such meeting is appointed to be held, come within two miles of the place appointed for such meeting, armed with any offensive weapon of any kind as firearms, swords, staves, bludgeons or the like; and any person who offends against the provisions in this section contained shall be guilty of a misdemeanor, punishable by fine not exceeding one hundred dollars, and imprisonment not exceeding three months, or both, at the discretion of the Court whose duty it may be to pass the sentence of the law upon such person. 7 V. c. 7, s. 18.

Persons guilty of lying in wait, how to be punished.

20. Any person who lies in wait for any person returning, or expected to return, from any such public meeting, with intent to commit an assault upon such person, or with intent, by abusive language, opprobrious epithets or other offensive demeanour directed to, at or against such person, to provoke such person, or those who may accompany him, to a breach of the peace, shall be guilty of a misdemeanor punishable by fine not exceeding two hundred dollars, and imprisonment not exceeding six months, or both, at the discretion of the Court. 7 V. c. 7, s. 19.]

## SCHEDULE "A."

(Section 5.)

TO THE INHABITANTS OF THE COUNTY OF A. (or as the case may be), AND ALL OTHERS HER MAJESTY'S SUBJECTS WHOM IT DOETH OR MAY IN ANYWISE CONCERN :

Whereas I, A. B., Sheriff of, &c., or we, C. D. and E. F., two (or whatever the number may be) of Her Majesty's Justices of the Peace for the County (or District) of A, resident within the said County (or District) having received a requisition, signed by I, J, K, L, &c. &c. (inserting the names of at least twelve of the requisitionists and as many more as conveniently may be, and mentioning the number of the others; thus) and fifty-six (or as the case may be) others, who (or twelve of whom) are freeholders of the said County (or District) (or citizens of the said City) having a right to vote for members to serve in the Legislative Assembly in respect of the property held by them within the said County (or District or City, &c., as the case may be), requesting me (or us) to call a public meeting of (here recite the requisition): And whereas I (or we) have determined to comply with the said requisition :

Now, therefore, I (or we) do hereby appoint the said meeting to be held at (here state the place) on , the day of next (or instant), at of the clock in the noon, of which all persons are hereby required to take notice. And whereas the said meeting has been so called by me (or us) in conformity with the provisions of chapter 177 of "The Revised Statutes of Ontario," entitled "An Act respecting Public Meetings," the said meeting, and all persons who attend the same, will therefore be within the protection of the said Act, of all which premises all manner of persons are hereby in Her Majesty's name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

Witness my hand (or our hands) at , in the of , this day of , 18 .

A. B., Sheriff.  
or C. D., J.R.  
E. F., J.P.



## SCHEDULE "B."

(Section 6.)

TO THE INHABITANTS OF THE COUNTY OF A (*or as the case may be*), AND ALL OTHERS HER MAJESTY'S SUBJECTS WHOM IT DOETH OR MAY IN ANYWISE CONCERN :

Whereas, by information on oath taken before D. E., Esquire, one of Her Majesty's Justices of the Peace for the County of C (*or City or District, or as the case may be*), within which the meeting hereinafter mentioned is appointed to be held, it appears that a Public Meeting of the inhabitants (*or householders, &c., as the case may be*) of the County of G (*or as the case may be*) is appointed to be held at \_\_\_\_\_, in the said County (*or as the case may be*), on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ next (*or instant*), at \_\_\_\_\_ of the clock in the \_\_\_\_\_ noon (*or at some other hour on the same day*), and that there is reason to believe that great numbers of persons will be present at such meeting ; and whereas it appears expedient to us C. D. and E. F., two (*or whatever the number may be*) of Her Majesty's Justices of the Peace having jurisdiction within the said County (*or as the case may be*), that, with a view to the more orderly holding of the said meeting, and the better preservation of the public peace at the same, the said meeting, and all persons who may attend the same, should be declared within the protection of chapter 177 of "*The Revised Statutes of Ontario*," entitled "*An Act respecting Public Meetings* :

Now, therefore, in pursuance of the provisions of the said Act, and the authority in us vested by virtue of the same, we, the said Justices, do hereby give notice of the holding of the said meeting, and do hereby declare the said public meeting, and all persons who attend the same, to be within the protection of the said Act.

Of all which premises all manner of persons are hereby in Her Majesty's name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

Witness our hands at \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_,  
this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.  
C. D., J. P.  
E. F. J. P.  
&c.

## CHAPTER 178.

## An Act to exempt Firemen from certain Local Services.

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Formation of Fire Companies may be authorized, s. 1.	But certificate may be forfeited, s. 3.
And certificates of enrolment granted, s. 2.	Certificate may be granted on seven years service, ss. 4, 5.
Holder exempt from certain services, s. 2.	Exemptions under, s. 6.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Formation of Fire Companies.

1. It shall be in the discretion of the corporate authorities or Boards of Police in any City or Town, or place in which the formation of Companies of Firemen is by law authorized and regulated, or, where there are no such authorities or Board, it shall be in the discretion of the Justices of the Peace of the District or County in which such City or Town is situate, in General Sessions assembled, or the majority of them, to consent to the formation of a Fire Company in such City, Town or place, or to defer the same until circumstances in their opinion render it expedient that such Company should be formed; and they may also, in their discretion, from time to time, discontinue or renew any such Company or Companies. C. S. C. e. 87, s. 3.

Discontinuance or renewal.

Certificated members of such Company to be exempted from serving as jurors, and from certain other offices.

2. Whenever any Company or Companies of Firemen have been regularly enrolled in any such City, Town or place, the corporate authorities, or Board of Police in such City or Town, or the Justices of the Peace for the District or County, or the majority of them, as aforesaid, respectively, being satisfied of the efficiency of such persons and accepting their enrolment, shall direct the Clerk of the Peace for the District or County to grant to each member of such Company a certificate that he is enrolled on the same, which certificate shall exempt the individual named therein, during the period of his enrolment, and his continuance in actual duty as such Fireman, from serving as a jurymen or a constable, and from all municipal offices. C. S. C. e. 87, s. 1.

Such exemption may be taken away in case of misconduct on the

3. The corporate authorities or Board of Police in any City or Town, or where there are no such authorities or Board, the Justices of the Peace for the District or County, or the majority of them, at any General or adjourned Sessions, upon complaint

to them made of neglect of duty, by any individual of such Fire Company, shall examine into the same; and for any such cause, and also, in case any individual of such Company is convicted of a breach of any of the rules legally made for the regulation of the same, may strike off the name of any such individual from the list of the Company, and thenceforward the certificate granted to such individual, as aforesaid, shall have no effect in exempting him from any duty or service in the next preceding section of this Act mentioned. C. S. C. c. 87, s. 2.

part of any  
member of any  
such Company.

4. When any member of any Company of Firemen, regularly enrolled in any City, Town or place in which the formation of Companies of Firemen is by law authorized and regulated, has regularly and faithfully served for the space and term of seven consecutive years in the same, the said member shall be entitled to receive, upon producing due proof of his having served seven consecutive years as aforesaid, a certificate from the Clerk of the Peace of the District or County in which he resides, or from the Clerk of the corporate body or Board of Police under whose authority the said Company has been established, that he has been regularly enrolled and served as a member of the said Fire Company for the space of seven years; and such certificate shall exempt the individual named therein from serving as a constable, and from all municipal offices, but this shall not exempt any such Fireman from serving as a juryman. C. S. C. c. 87, s. 4.

Firemen hav-  
ing served  
seven years  
exempted from  
serving in cer-  
tain offices.

5. The Municipal Council of any City wherein the formation of Companies of Firemen is by law authorized and regulated, may, by by-law, enact, that when a member of any Company of Firemen regularly enrolled in such City has regularly and faithfully served in such Company for the space and term of seven years consecutively, such member, upon producing due proof of his having so served, shall receive a certificate from the Clerk of the Council of the City or the Clerk of the corporate body under whose authority the Company was established, that he has been regularly enrolled and served as a member of the said Fire Company for the space of seven years. C. S. C. c. 87, s. 5.

Firemen hav-  
ing served  
seven years  
entitled to a  
certificate to  
that effect.

6. Such certificate shall exempt the individual named therein from the payment of any personal statute labour tax thereafter, and from serving as a juror on the trial of any cause in any Court of Law within this Province. C. S. C. c. 87, s. 6.

Such certifi-  
cate shall ex-  
empt from  
statute labour  
tax and from  
serving as  
jurors.

[See also, as to exemption of Firemen from jury service, *Rev. Stat. c. 48, s. 7 (31)*; and as to exemption from municipal offices, *Rev. Stat. c. 174, s. 75.*]



## CHAPTER 179.

## An Act respecting the Support of Destitute Insane Persons.

Accounts of moneys for maintaining destitute insane persons to be laid before Grand Jury of General Sessions, s. 1.	Payments for such purposes, s. 2. Witnesses may be called before Grand Jury, s. 3.
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**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Clerk of the Peace to lay before the Grand Jury of the General Sessions an account of money necessary for maintaining insane persons.

**1.** The Clerk of the Peace shall once in each year lay before the Grand Jury of the General Sessions of the Peace in each County an account in detail of all sums of money expended during the last preceding twelve months, or necessary to be advanced during the next ensuing twelve months, for the purpose of maintaining and supporting insane destitute persons received into the Gaol of the County, and the said Grand Jury may at such General Sessions present such just and reasonable sum as they in their discretion think necessary for the purpose of maintaining and supporting insane destitute persons, either in the Gaol or some other place within the County, for the year next ensuing the said Sessions; which presentment shall be made once in each year, and in each year the like account in detail of the moneys expended during the past year shall be laid before the Grand Jury as aforesaid. C. S. U. C. c. 122, s. 1.

The sum of money presented to be paid by the Treasurer.

**2.** The Chairman of the General Sessions may, from time to time, issue his warrant for the payment of such sum of money to the amount, but not exceeding the amount, so presented, and such money shall be payable by the Treasurer of the County out of the moneys of the County in his hands and unappropriated, and the account so laid before the Grand Jury from time to time, so far as the same has been approved of, and the said warrant, shall be a sufficient discharge and indemnity to all persons concerned in the expenditure of such sum of money. C. S. U. C. c. 122, s. 2.

Witnesses may be summoned before the Grand Jury.

**3.** The Courts of General Sessions respectively shall from time to time, by writ of subpoena, call before them any person required by the Grand Jury, and shall swear such person in open Court true answer to make to all such questions as may be asked of him by the Grand Jury, touching and concerning insane destitute persons in the County, and their maintenance and support, and every such person shall be examined on the said oath before the Grand Jury. C. S. U. C. c. 122, s. 3.

### 3. *Assessment of Property.*

CHAP. 180.—Assessment of Property, p. 235.

## CHAPTER 180.

### An Act respecting the Assessment of Property.

Preliminary provisions, ss. 1-4.  
 Property Liable to Taxation, ss. 5-9.  
     Exemptions. s. 6.  
 Assessors—  
     Appointment of, ss. 10, 11.  
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 Mode of Assessing—  
     Real Property, ss. 13-27.  
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     General Provisions, ss. 37-43.  
     Special Provisions as to Counties, Cities and Separated Towns, ss. 44-46.  
 Appeals—  
     To Court of Revision, ss. 47-58.  
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 Equalization of Assessments, ss. 68-75.  
 Statute Labour, ss. 76-87.  
 Collection of Rates—  
     Collector's Roll, ss. 88-90.  
     Collectors, duties of, ss. 91-105.  
 Annual Lists of Patented Lands, ss. 106, 107.  
 Arrears of Taxes—  
     Duties of Treasurers, Clerks and Assessors in relation to, ss. 108-126.  
     Sale of Lands for Taxes, ss. 127-139.  
     Certificate of Sale, Tax Deed, ss. 140-155.  
     Deeds on sales for taxes binding unless questioned within two years, s. 156.

Deeds to be valid if sale valid, though statute authorizing sale be repealed, &c., s. 157.  
 Rights of entry adverse to tax purchaser in possession not capable of being conveyed, s. 158.  
 Where sale void for uncertainty, right of purchaser to improvements, s. 159.  
 Option of purchaser to retain land on paying its value, s. 159 (2).  
 Value of land or improvements to be paid into Court of Chancery in certain cases, s. 160.  
 Right of other persons interested to pay in value if defendant does not, s. 161.  
 Lien in such cases, s. 161 (2).  
 How owner to obtain sums paid in ss. 162, 163  
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 Lien of tax purchaser for purchase money where his title invalid, s. 165.  
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 Act not to apply in certain cases, ss. 167, 168.  
 Interpretation, s. 169.  
 Non-Resident Land Fund, ss. 170-184.  
 Arrears of Taxes in Cities and Towns, ss. 185, 186.  
 Responsibility of Officers, ss. 187-214.  
 Miscellaneous Provisions, ss. 215-217.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

PRELIMINARY PROVISIONS.

- Short title.      **1** This Act may be cited as "*The Assessment Act*."
- Interpretation clause.      **2.** In this Act
- "Gazette."      (1) "Gazette" shall mean the "*Ontario Gazette*;"
- "Township."      (2) "Township" shall include a Union of Townships, while such Union continues ;
- 'County Council.'"      (3) "County Council" shall include provisional County Council ;
- "Town."      (4) "Town" and "Village" shall mean respectively incorporated Town and Village ;
- "Village."
- "Ward."      (5) "Ward," unless so expressed, shall not apply to a Township Ward ;
- "Municipality."      (6) "Municipality" or "Local Municipality" shall not include a County unless there is something in the subject or context requiring a different construction. 32 V. c. 36, s. 2.
- "Local Municipality."
- "Land,"      (7) "Land," "Real Property," and "Real Estate," respectively, shall include all buildings or other things erected upon or affixed to the land, and all machinery or other things so fixed to any building as to form in law part of the realty, and all trees or underwood growing upon the land, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to Her Majesty. 32 V. c. 36, s. 3.
- "Real Property."
- "Real Estate."
- "Personal Estate."      (8) "Personal Estate" and "Personal Property" shall include all goods, chattels, shares in incorporated companies, interest on mortgages, dividends from bank stock, money, notes, accounts and debts at their actual value, income and all other property, except land and real estate, and real property as above defined, and except property herein expressly exempted. 32 V. c. 36, s. 4.
- "Personal Property."
- "Property."      (9) "Property" shall include both real and personal property as above defined. 32 V. c. 36, s. 5.
- Unoccupied lands to be called "Lands of Non-Residents," except, &c.      **3.** Unoccupied land shall be denominated "Lands of Non-Residents," unless the owner thereof has a legal domicile or place of business in the local Municipality where the same is situate, or gives notice in writing, setting forth his full name, place of residence and post office address, to the Clerk of the



Municipality, on or before the thirtieth day of January in each year, that he owns such land, describing it, and requires his name to be entered on the assessment roll therefor, which notice may be in the form or to the effect of Schedule A to this Act; and the Clerk of the Municipality shall, on or before the first day of February in each year, make up and deliver to the Assessor or Assessors a list of the persons requiring their names to be entered on the roll, and the lands owned by them. 32 V. c. 36, s. 6.

4. The real estate of all Railway Companies shall be considered as lands of residents, although the Company has not an office in the Municipality; except in cases where a Company ceases to exercise its corporate powers, through insolvency or other cause. 32 V. c. 36, s. 7.

Real estate of  
Railway Com-  
panies, &c.

#### PROPERTY LIABLE TO TAXATION.

5. All municipal, local or direct taxes or rates, shall, where no other express provision has been made in this respect, be levied equally upon the whole rateable property, real and personal, of the Municipality or other locality, according to the assessed value of such property, and not upon any one or more kinds of property in particular, or in different proportions. 32 V. c. 36, s. 8.

All taxes to be  
levied equally  
upon the rate-  
able property,  
when no other  
provision  
made.

6. All land and personal property in this Province shall be liable to taxation, subject to the following exemptions, that is to say:

What pro-  
perty liable to  
taxation.

#### *Exemptions.*

(1.) All property vested in or held by Her Majesty, or vested in any public body or body corporate, officer or person in trust for Her Majesty, or for the public uses of the Province; and also all property vested in or held by Her Majesty, or any other person or body corporate, in trust for or for the use of any tribe or body of Indians, and either unoccupied, or occupied by some person in an official capacity. 32 V. c. 36, s. 9 (1).

All property  
belonging to  
Her Majesty.

Indian lands  
unoccupied, or  
occupied offi-  
cially.

(2.) Where any property mentioned in the preceding clause is occupied by any person otherwise than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable. 32 V. c. 36, s. 9 (2).

But if occu-  
pied not offi-  
cially.

(3.) Every place of worship, and land used in connection therewith, church yard or burying ground. 32 V. c. 36, s. 9 (3).  
*See also Rev. Stat. c. 170, s. 13.*

Places of wor-  
ship, &c.

(4.) The buildings and grounds of and attached to every University, College, High School, or other incorporated seminary of learning, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by

Public educa-  
tional institu-  
tions.

such institution, or if unoccupied, but not if otherwise occupied. 32 V. c. 36, s. 9 (4).

Town and City halls, &c. (5.) Every Public School House, Town or City or Township Hall, Court House, Gaol, House of Correction, Lock-up House and Public Hospital, with the land attached thereto, and the personal property belonging to each of them. 32 V. c. 36, s. 9 (5).

Public roads, &c. (6.) Every public road and way or public square. 32 V. c. 36, s. 9 (6).

Municipal property. (7.) The property belonging to any County or local Municipality, whether occupied for the purposes thereof or unoccupied; but not when occupied by any person as tenant or lessee, or otherwise than as a servant or officer of the corporation for the purposes thereof. 32 V. c. 36, s. 9 (7).

Provincial Penitentiary. (8.) The Provincial Penitentiary, the Central Prison and the Provincial Reformatory, and the land attached thereto. 32 V. c. 36, s. 9 (8); 34 V. c. 17, s. 34.

Poor houses, &c. (9.) Every Industrial Farm, Poor House, Alms House, Orphan Asylum, House of Industry, and Lunatic Asylum, and every house belonging to a Company for the reformation of offenders, and the real and personal property belonging to or connected with the same. 32 V. c. 36, s. 9 (9).

Scientific institutions, &c. (10.) The property of every Public Library, Mechanics' Institute and other public, literary or scientific institution, and of every Agricultural or Horticultural Society, if actually occupied by such Society. 32 V. c. 36, s. 9 (10).

Personal property of Governors. (11.) The personal property and official income of the Governor-General of the Dominion of Canada, and the official income of the Lieutenant-Governor of this Province. 32 V. c. 36, s. 9 (11).

Land occupied by military or naval officers and their pay, salaries, pensions, &c. (12.) The houses and premises of any officers, non-commissioned officers and privates of Her Majesty's regular Army or Navy in actual service, while occupied by them, and the full or half-pay of any one in either of such services; and any pension, salary, gratuity or stipend derived by any person from Her Majesty's Imperial treasury, or elsewhere out of this Province, and the personal property of any person in such Naval or Military services, on full pay, or otherwise in actual service. 32 V. c. 36, s. 9 (12); 33 V. c. 27, s. 1.

Property of officers on full pay.

Pensions under \$200. (13.) All pensions of two hundred dollars a year and under payable out of the public moneys of the Dominion of Canada, or of this Province. 32 V. c. 36, s. 9 (13).

Grain, &c., in transitu. (14.) All grain, cereals, flour, live or dead stock, the produce of the farm or field, in store or warehouse, and at any time owned or held by or in the possession of any person in any Muni-

cipality, such person not being the producer thereof, and being so held, owned or possessed solely for the *bona fide* purpose of being conveyed by water or railway for shipment or sale at some other place. 39 V. c. 33, s. 3.

(15.) The income of a farmer derived from his farm, and the income of merchants, mechanics, or other persons derived from capital liable to assessment. 32 V. c. 36, s. 9 (14); 33 V. c. 27, s. 2. Incomes of farmers, etc.

(16.) So much of the personal property of any person as is invested in mortgage upon land or is due to him on account of the sale of land, the fee or freehold of which is vested in him, or is invested in the debentures of the Dominion of Canada or of this Province, or of any Municipal Corporation thereof, and such debentures. 32 V. c. 36, s. 9 (15). Personal property secured by mortgage, or Provincial or Municipal debentures.

(17.) The shares held by any person in the capital stock of any incorporated or chartered bank, doing business in this Province; but any interest, dividends or income derived from any such shares held by any person resident in this Province shall be deemed to come within and to be liable to assessment under the twenty-eighth section of this Act. 37 V. c. 19, s. 3. Dividends only of Bank Stock to be assessed.

(18.) The stock held by any person in any Railroad Company, the shares in Building Societies, and so much of the personal property of any person as is invested in any Company incorporated for the purpose of lending money on the security of real estate: but the interest and dividends derived from shares in such Building Societies, or from investments in such companies as aforesaid, shall be liable to be assessed. 32 V. c. 36, s. 9 (17); 33 V. c. 27, s. 3. Railroad and Building Society stock.

(19.) All personal property which is owned out of this Province, except as hereinafter provided. 32 V. c. 36, s. 9 (18); 37 V. c. 19, ss. 1 & 2. Personal property owned out of the Province.

(20.) So much of the personal property of any person as is equal to the just debts owed by him on account of such property, except such debts as are secured by mortgage upon his real estate, or are unpaid on account of the purchase money therefor. 32 V. c. 36, s. 9 (19). Personal property equal to debts due.

(21.) The net personal property of any person: provided the same is under one hundred dollars in value. 32 V. c. 36, s. 9 (20). Personalty under \$100

(22.) The annual income of any person: provided the same does not exceed four hundred dollars. 32 V. c. 36, s. 9 (21). Income under \$400

(23.) The stipend or salary of any clergyman or minister of religion, while in actual connection with any church, and doing duty as such clergyman or minister, to the extent of one Ministers' salaries.



thousand dollars, and the parsonage or dwelling-house occupied by him, with the land thereto attached, to the extent of two acres, and not exceeding two thousand dollars in value. 33 V. c. 27, s. 4.

Rental of real estate, etc. (24.) Rental or other income derived from real estate, except interest on mortgages. 32 V. c. 36, s. 9 (23).

Household effects, books, etc. (25.) Household effects of whatever kind, books and wearing apparel. 32 V. c. 36, s. 9 (24).

The case of income exempted from assessment. 7. Where any person derives from some trade, office, calling or profession, an income which is entitled by law to exemption from assessment, he shall not be bound to avail himself of such right to exemption, but if he thinks fit, he may require his name to be entered in the assessment roll for such income, for the purpose of being entitled to vote at elections for the Legislative Assembly and Municipal Councils, and such income shall in such case be liable to taxation like other assessable income or property, and it shall be the duty of the Assessor to enter the name of such person in the assessment roll. 37 V. c. 3, s. 2.

Realty within, but owned out of Ontario to be assessable. 8. All real property situate within but owned out of the Province, shall be liable to assessment in the same manner and subject to the like exemptions as other real property under the provisions of this Act. 37 V. c. 19, s. 1.

Personalty in control of agent for non-resident owner assessable. 9. All personal property within the Province in the possession or control of any agent or trustee for or on behalf of any owner thereof, who is resident out of this Province, shall be liable to assessment in the same manner and subject to the like exemption as in the case of the other personal property of the like nature under this Act. 37 V. c. 19, s. 2.

#### APPOINTMENT OF ASSESSORS AND COLLECTORS.

(See also *Rev. Stat. c. 174*, ss. 250-253.)

Assessors and collectors to be appointed. 10. The Council of every Municipality, except Counties, shall appoint such number of Assessors and Collectors for the Municipality as they may think necessary. 32 V. c. 36, s. 19.

Municipality may be divided into assessment districts. 11. Such Councils may appoint to such Assessors and Collectors the assessment district or districts within which they shall act, and may prescribe regulations for governing them in the performance of their duties. 32 V. c. 36, s. 20.

#### DUTIES OF ASSESSORS.

Assessment rolls, their form, contents, etc. 12. The Assessor or Assessors shall prepare an assessment roll, in which, after diligent inquiry, he or they shall set down according to the best information to be had—

(1.) The names and surnames in full, if the same can be as- Names of residents.  
certained, of all taxable persons resident in the Municipality who have taxable property therein, or in the district for which the Assessor has been appointed;

(2.) And of all non-resident owners who have given the Of non-resi-  
notice in writing mentioned in section three, and required dents.  
their names to be entered in the roll.

(3.) The description and extent or amount of property assess- Property  
able against each; assessable.

(4.) And such particulars in separate columns as follows:— Further parti-  
culars.

Column 1.—The successive number on the roll.

Column 2.—Name of taxable party.

Column 3.—Occupation.

Column 4.—Statement whether the party is a Freeholder, Householder, Tenant, or Farmer's Son, by inserting opposite the name of the party the letter "F," "H," "T," or "F. S." as the case may be.

Column 5.—The age of the assessed party.

Column 6.—Name and address of the owner, where the party named in column two is not the owner.

Column 7.—School section, and whether Public or Separate School Supporter.

Column 8.—Number of concession, name of street, or other designation of the local division in which the real property lies.

Column 9.—Number of lot, house, etc., in such division.

Column 10.—Number of acres, or other measure showing the extent of the property.

Column 11.—Number of acres cleared, (or, in Cities, Towns or Villages, whether vacant or built upon.)

Column 12.—Value of each parcel of real property.

Column 13.—Total value of real property.

Column 14.—Value of personal property other than income.

Column 15.—Taxable income.

Column 16.—Total value of personal property and taxable income.

Column 17.—Total value of real and personal property and taxable income.

Column 18.—Statute labour (in case of male persons from twenty-one to sixty years of age), and number of days' labour.

Column 19.—Dog tax; number of dogs and number of bitches.

Column 20.—Number of persons in the family of each person rated as a resident.

Column 21.—Religion.

Column 22.—Number of cattle.

Column 23.—Number of sheep.

Column 24.—Number of hogs.

Column 25.—Number of horses.

Column 26.—Date of delivery of notice under section forty-one. 32 V. c. 36, s. 21; 40 V. c. 10, s. 5 (1). See Schedule B.

*Mode of Assessing Real Property.*

Land to be assessed in the municipality or ward.

Personal property.

**13.** Land shall be assessed in the Municipality in which the same lies, and, in the case of Cities and Towns, in the Ward in which the property lies; and this shall include the land of incorporated Companies, as well as other property; and when any business is carried on by a person in a Municipality in which he does not reside, or in two or more Municipalities, the personal property belonging to such person shall be assessed in the Municipality in which such personal property is situated, and against the person in possession or charge thereof, as well as against the owner. 32 V. c. 36, s. 22.

When land to be assessed in owner's name.

**14.** Land occupied by the owner shall be assessed in his name. 32 V. c. 36, s. 23.

When land not occupied by the owner, but owner is known.

**15.** As to land not occupied by the owner, but of which the owner is known and, at the time of the assessment being made, resides or has a legal domicile or place of business in the Municipality, or has given the notice mentioned in section three, the same shall be assessed against such owner alone, if the land is unoccupied, or against the owner and occupant, if such occupant is any other person than the owner. 32 V. c. 36, s. 24.

When owner non-resident and unknown.

**16.** If the owner of the land is not resident within the Municipality, but resident within this Province, then, if the land is occupied, it shall be assessed in the name of and against the occupant and owner; but if the land is not occupied, and the owner has not requested to be assessed therefor, then it shall be assessed as land of a non-resident. 32 V. c. 36, s. 25.

Occupant for non-resident owner may be assessed as owner in certain cases.

**17.** In the case of real property, owned by a person not resident within this Province, who has not required his name to be entered on the assessment roll, then if the land is occupied it shall be assessed in the name of and against the occupant as such, and he shall be deemed the owner thereof for the purpose of imposing and collecting taxes upon and from the same land; but if the land is not occupied, and the owner has not requested to be assessed therefor, then it shall be assessed as land of a non-resident; and it shall not be necessary that the name of such non-resident or owner be inserted in the assessment roll, but it shall be sufficient to mention therein the name of the reputed owner, or the words "*Owner Unknown*," according to the Assessor's knowledge or information. 37 V. c. 19, s. 4.

When land may be assessed as non-resident.

When land assessed against owner and occupant.

**18.** When land is assessed against both the owner and occupant, or owner and tenant, the Assessor shall place both names within brackets on the roll, and shall write opposite the name of the owner the letter "F," and opposite the name of the occupant or tenant the letter "H" or "T;" and both names shall be numbered on the roll. 32 V. c. 36, s. 26.



2. No ratepayer shall be counted more than once in returns and lists required by law for municipal purposes; and the taxes may be recovered from either the owner or occupant or from any future owner or occupant, saving his recourse against any other person. 32 V. c. 36, s. 26. Ratepayer only to be counted once.

19. When the land is owned or occupied by more persons than one, and all their names are given to the Assessor, they shall be assessed therefor in the proportions belonging to or occupied by each respectively; and if a portion of the land so situated is owned by parties who are non-resident, and who have not required their names to be entered on the roll, the whole of the property shall be assessed in the names furnished to the Assessor as the names of the owners, saving the recourse of the persons whose names are so given against the others. 32 V. c. 36, s. 27. When land occupied by more owners than one.

20. Every farmer's son *bona fide* resident on the farm of his father or mother, at the time of the making of the assessment roll, shall be entitled to be, and may be, entered, rated and assessed on such roll, in respect of such farm, in manner following: Mode of assessing farmers' sons resident on their parents' farm.

1. If the father is living, and either the father or mother is the owner of the farm, the son or sons may be entered, rated and assessed, in respect of the farm, jointly with the father, and as if such father and son or sons were actually and *bona fide* joint owners thereof. If father living.

2. If the father is dead, and the mother is the owner of the farm, and a widow, the son or sons may be entered, rated and assessed, in respect of the farm, as if he or they was or were actually and *bona fide* an occupant or tenant, or joint occupants or tenants thereof, under the mother, and within the meaning of "*The Election Act*." If father dead and farm owned by the mother.  
Rev. Stat. c. 10.

3. Occasional or temporary absence from the farm for a time or times, not exceeding in the whole four months of the twelve months next prior to the return of the roll by the Assessor, shall not operate to disentitle a son to be considered *bona fide* resident as aforesaid.

4. If there are more sons than one so resident, and if the farm is not rated and assessed at an amount sufficient, if equally divided between them, to give a qualification to vote at an election for a member of the Legislative Assembly, or at a municipal election, to the father and all the sons, where the father is living, or to the sons alone where the father is dead and the mother is a widow, then the right to be assessed under this Act shall belong to and be the right only of the father and such of the eldest or elder of said sons to whom the amount at which the farm is rated and assessed will, when equally divided between them, give a qualification so to vote.

5. If the amount at which the farm is so rated and assessed is insufficient, if equally divided between the father, if living, and one son, to give to each a qualification so to vote, then the father shall be the only person entitled to be assessed in respect of such farm. 40 V. c. 9, s. 2.

Farmer's son may require his name to be entered on assessment roll as joint owner.

6. A farmer's son entitled to be assessed under any of the preceding provisions, may require his name to be entered and rated on the assessment roll as a joint or separate owner, occupant, or tenant of the farm, as the case may be; and such farmer's son so entered and rated shall be liable in respect of such assessment as such owner, tenant, or occupant. 40 V. c. 9, s. 4

Interpretation.

7. Wherever the following words occur in this section, they shall be interpreted as follows :

"Owner."

(a) "Owner" shall signify proprietor in his own right or in the right of his wife, of an estate for life, or any greater estate, either legal or equitable, except where the proprietor is a widow, and in such latter case the word "owner" shall signify proprietor in her own right of any such estate.

"Farm."

(b) "Farm" shall mean land actually occupied by the owner thereof, and not less in quantity than twenty acres.

"Son," &c.

(c) "Son," or "sons," or "farmer's son," shall, for the purposes of this Act, mean any male person or persons not otherwise qualified to vote, and being the son or sons of an owner and actual occupant of a farm.

"Election."

(d) "Election" shall mean an election for a member to the Legislative Assembly of this Province, or to a Municipal Council, as the case may be.

"To vote."

(e) "To vote" shall mean to vote at an election.

"Father."

(f) "Father" shall include step-father. 40 V. c. 9, s. 1.

When tenants may deduct taxes from rent.

**21.** Any occupant may deduct from his rent any taxes paid by him, if the same could also have been recovered from the owner, or previous occupant, unless there is a special agreement between the occupant and the owner to the contrary. 32 V. c. 36, s. 28.

Assessor to note non-residents, if required, on the roll.

**22.** The Assessor shall write opposite the name of any non-resident freeholder, who requires his name to be entered on the roll, as hereinbefore provided, in column number three, the letters "N. R.," and the address of such freeholder. 32 V. c. 36, s. 29.

How property estimated.

**23.** Except in the case of mineral lands hereinafter provided for, real and personal property shall be estimated at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor. 32 V. c. 36, s. 30.

2. In estimating the value of mineral lands, such lands and Mineral lands. the buildings thereon shall be valued and estimated at the value of other lands in the neighbourhood for agricultural purposes, but the income derived from any mine or mineral work shall be subject to taxation in the same manner as other incomes under this Act. 33 V. c. 27, s. 5.

**24.** In assessing vacant ground, or ground used as a farm, garden, or nursery, and not in immediate demand for building purposes, in Cities, Towns, or Villages, whether incorporated or not, the value of such vacant or other ground shall be that at which sales of it can be freely made, and where no sales can be reasonably expected during the current year, the Assessors shall value such land as though it was held for farming or gardening purposes, with such per centage added thereto as the situation of the land reasonably calls for; and such vacant land, though surveyed into building lots, if unsold as such, may be entered on the assessment roll as so many acres of the original block or lot, describing the same by the description of the block or by the number of the lot and concession of the Township in which the same is situated, as the case may be. What shall be deemed vacant land, and how its value shall be calculated in cities, etc.

2. In such case, the number and description of each lot, comprising each such block shall be inserted in the assessment roll; and each lot shall be liable for a proportionate share as to value, and the amount of the taxes, if the property is sold for arrears of taxes. 32 V. c. 36, s. 31. Assessment thereof.

**25.** When ground is not held for the purposes of sale, but *bona fide* enclosed and used in connection with a residence or building as a paddock, park, lawn, garden or pleasure ground, it shall be assessed therewith, at a valuation which, at six per centum, would yield a sum equal to the annual rental which, in the judgment of the Assessors, it is fairly and reasonably worth for the purposes for which it is used, reference being always had to its position and local advantages. 32 V. c. 36, s. 32. When not held for sale, but for gardens, etc.

**26.** Every Railway Company shall annually transmit, on or before the first day of February, to the Clerk of every Municipality in which any part of the roadway or other real property of the Company is situated, a statement showing:— Railway companies to furnish certain statements to clerks of municipalities.

1. The quantity of land occupied by the roadway, and the actual value thereof, according to the average value of land in the locality, as rated on the assessment roll of the previous year;

2. The real property, other than the roadway in actual use and occupation by the Company, and its value; and

3. The vacant land not in actual use by the Company, and the value thereof, as if held for farming or gardening purposes;

And the Clerk of the Municipality shall communicate such statement to the Assessor, who shall deliver at, or transmit by post to, any station or office of the Company a notice addressed Duties of clerks thereon



to the Company of the total amount at which he has assessed the real property of the Company in his Municipality or Ward, showing the amount for each description of property mentioned in the above statement of the Company; and such statement and notice respectively shall be held to be the statement and notice required by the thirty-seventh and forty-first sections of this Act. 32 V. c. 36, s. 33.

Proceedings in case of non-resident lands.

**27.** As regards the lands of non-residents who have not required their names to be entered in the roll, the Assessors shall proceed as follows :—

To be inserted in roll separately.

1. They shall insert such land in the roll separated from the other assessments, and shall head the same as "*Non-residents' Land Assessments.*"

When not known to be subdivided into lots.

2. If the land is not known to be subdivided into lots, it shall be designated by its boundaries or other intelligible description.

When known to be subdivided into lots.

3. If it is known to be subdivided into lots, or is part of a tract known to be so subdivided, the Assessors shall designate the whole tract in the manner prescribed with regard to undivided tracts; and, if they can obtain correct information of the subdivisions, they shall put down in the roll, and in a first column, all the unoccupied lots by their numbers and names alone, and without the names of the owners, beginning at the lowest number and proceeding in numerical order to the highest; in a second column, and opposite to the number of each lot, they shall set down the quantity of land therein liable to taxation; in a third column, and opposite to the quantity, they shall set down the value of such quantity, and, if such quantity is a full lot, it shall be sufficiently designated as such by its name or number, but if it is part of a lot, the part shall be designated in some other way whereby it may be known. 32 V. c. 36, s. 34.

#### *Mode of Assessing Personal Property.*

How person deriving income from any trade or profession to be assessed.

**28.** Subject to the provisions of the seventh section, no person deriving an income exceeding four hundred dollars per annum from any trade, calling, office, profession or other source whatsoever, not declared exempt by this Act, shall be assessed for a less sum as the amount of his net personal property than the amount of such income during the year then last past, in excess of the said sum of four hundred dollars, but no deduction shall be made from the gross amount of such income, by reason of any indebtedness, save such as is equal to the annual interest thereof; and such last year's income, in excess of the said sum of four hundred dollars, shall be held to be his net personal property, unless he has other personal property liable to assessment, in which case such excess and other per-

sonal property shall be added together and constitute his personal property liable to assessment. 32 V. c. 36, s. 35.

**29.** The personal property of an incorporated Company shall not be assessed against the Company, but each shareholder shall be assessed for the value of the stock or shares held by him as part of his personal property, unless such stock is exempted by this Act. Personal property of corporate companies not to be assessed.

2. In Companies investing their means in gas works, water-works, plank and gravel roads, manufactories, hotels, railways and tram roads, harbours or other works requiring the investment of the whole or principal part of the stock in real estate already assessed for the purpose of carrying on such business, the shareholders shall only be assessed on the income derived from such investment. 32 V. c. 36, s. 36. Gas companies, etc.

**30.** The personal property of a partnership shall be assessed against the firm at the usual place of business of the partnership, and a partner in his individual capacity shall not be assessable for his share of any personal property of the partnership which has already been assessed against the firm. 32 V. c. 36, s. 37. Personal property of partnerships, how and where to be assessed.

2. If a partnership has more than one place of business, each branch shall be assessed, as far as may be, in the locality where it is situate, for that portion of the personal property of the partnership which belongs to that particular branch; and if this cannot be done, the partnership may elect at which of its places of business it will be assessed for the whole personal property, and shall be required to produce a certificate at each of the other places of business of the amount of personal property assessed against it elsewhere. 32 V. c. 36, s. 38. As to partnerships having more than one business locality.

**31.** Every person having a farm, shop, factory, office or other place of business where he carries on a trade, profession, or calling, shall, for all personal property owned by him, wheresoever situate, be assessed in the Municipality or Ward where he has such place of business, at the time when the assessment is made. 32 V. c. 36, s. 39. Where parties carrying on trade, etc., to be assessed for personal property.

2. If he has two or more such places of business in different Municipalities or Wards, he shall be assessed at each for that portion of his personal property connected with the business carried on thereat; or, if this cannot be done, he shall be assessed for part of his personal property at one, and part at another of his places of business; but he shall, in all such cases, produce a certificate at each place of business of the amount of personal property assessed against him elsewhere. 32 V. c. 36, s. 40. When the party has two or more places of business.

When the party has no place of business.

**32.** If any person has no place of business, he shall be assessed at his place of residence. 32 V. c. 36, s. 41.

Salaries, &c., to be assessed at the place where earned.

**33.** Every person who holds any appointment or office of emolument to which an annual salary, gratuity or other compensation is attached, and performs the duties of such appointment or office within a Municipality in which he does not reside, shall be assessed in respect of the amount of such salary, gratuity or other compensation at the place where he performs such duties, and he shall not be assessable therefor at his place of residence, but, if required, shall procure a certificate of being otherwise assessed under the provisions of this section: but this section shall not apply to County municipal officers. 37 V. c. 19, s. 6.

When personalty of non-residents may be assessed against the agent therefor.

**34.** The personal property of a person not resident within this Province, shall be assessed in the name of and against any agent, trustee or other person who is in the control or possession thereof, and shall be deemed to be the individual property of such agent, trustee or other person, for all objects within this Act. 37 V. c. 19, s. 5.

Separate assessment of joint owners possessors.

**35.** In case of personal property, owned or possessed by or under the control of more than one person resident in the Municipality or Ward, each shall be assessed for his share only, or if they hold in a representative character, then each shall be assessed for an equal portion only. 32 V. c. 36, s. 43.

Case of executors, etc.

**36.** Personal property in the sole possession or under the sole control of any person as trustee, guardian, executor or administrator, shall be assessed against such person alone. 32 V. c. 36, s. 42.

Parties assessed as trustees, etc., to have their representative character attached to their names.

2. Where a person is assessed as trustee, guardian, executor or administrator, he shall be assessed as such, with the addition to his name of his representative character, and such assessment shall be carried out in a separate line from his individual assessment, and he shall be assessed for the value of the real and personal estate held by him, whether in his individual name, or in conjunction with others in such representative character, at the full value thereof, or for the proper proportion thereof, if others resident within the same Municipality are joined with him in such representative character. 32 V. c. 36, s. 44.

#### *General Provisions.*

Particulars respecting real property to be delivered to assessors in writing by the parties to be assessed.

**37.** It shall be the duty of every person assessable for real or personal property in any local Municipality, to give all necessary information to the Assessors, and if required by the Assessor, or by one of the Assessors if there is more than one, he shall deliver to him a statement in writing, signed by such person (or by his agent, if the person himself is absent, con-



taining all the particulars respecting the real or personal property assessable against such person, which are required in the assessment roll; and if any reasonable doubt is entertained by the Assessor, of the correctness of any information given by the party applied to, the Assessor shall require from him such written statement. 32 V. c. 36, s. 45.

**38.** No such statement shall bind the Assessor, or excuse him from making due inquiry to ascertain its correctness; and, notwithstanding the statement, the Assessor may assess such person for such amount of real or personal property as he believes to be just and correct, and may omit his name or any property which he claims to own or occupy, if the Assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such property. 32 V. c. 36, s. 46.

Statements given by parties not binding on assessors.

**39.** In case any person fails to deliver to the Assessor the written statement mentioned in the two preceding sections when required so to do, or knowingly states anything falsely in the written statement required to be made as aforesaid, such person shall, on complaint of the Assessor, and upon conviction before a Justice of the Peace having jurisdiction within the County wherein the Municipality is situate, forfeit and pay a fine of twenty dollars, to be recovered in like manner as other penalties upon summary conviction before a Justice of the Peace. 32 V. c. 36, s. 47.

Penalty for not giving statement or making false statement.

**40.** To prevent the creation of false votes, where any person claims to be assessed, or claims that any other person should be assessed, as owner or occupant of any parcel of land, or as possessing the income which entitles him to vote in the Municipality at any election, and the Assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed, it shall be the duty of the Assessor to make reasonable enquiries before assessing such person. 39 V. c. 11, s. 28. *See also Rev. Stat. c. 9, s. 29.*

Assessor to make inquiries before assessing persons claiming to be assessed.

**41.** Every Assessor, before the completion of his roll, shall leave for every party named thereon, resident or domiciled; or having a place of business within the Municipality, and shall transmit by post to every non-resident who has required his name to be entered thereon, and furnished his address to the Clerk, a notice of the sum at which his real and personal property has been assessed, according to the form of Schedule B., annexed to this Act, and shall enter on the roll opposite the name of the party, the time of delivering or transmitting such notice, which entry shall be *prima facie* evidence of such delivery or transmission. 32 V. c. 36, s. 48.

Assessors to give notice to parties of the value at which their property assessed.

**42.** Subject to the provisions of the forty-fourth and forty-sixth sections, every Assessor shall begin to make his roll in each year not later than the fifteenth day of February, and

When assessment roll to be completed.

shall complete the same on or before the thirtieth day of April, and shall attach thereto a certificate signed by him, and verified upon oath or affirmation in the form following :

Certificate  
attached to  
roll.

" I do certify that I have set down in the above assessment roll all the  
" real property liable to taxation situate in the Municipality (or Ward) of  
" (*as the case may be*) and the true actual value thereof in each case, accord-  
" ing to the best of my information and judgment ; and also that the said  
" assessment roll contains a true statement of the aggregate amount of  
" the personal property, or of the taxable income, of every party named  
" on the said roll ; and that I have estimated and set down the same  
" according to the best of my information and belief ; and I further cer-  
" tify, that I have entered thereon the names of all the resident house-  
" holders, tenants and freeholders, and of all other persons who have  
" required their names to be entered thereon, with the true amount of  
" property occupied or owned, or of income received by each, and that  
" I have not entered the name of any person whom I do not truly believe  
" to be a householder, tenant or freeholder, or the *bona fide* occupier or  
" owner of the property, or in receipt of the income set down opposite his  
" name, for his own use and benefit ; and that the date of delivery or  
" transmitting the notice, required by section forty-one of "*The Assess-*  
" *ment Act*" in every case truly and correctly stated in the said roll ;  
" and I further certify and swear (*or affirm, as the case may be*) that I  
" have not entered the name of any person at too low a rate in order to  
" deprive such person of a vote, or at too high a rate in order to give such  
" person a vote, or for any other reason whatever ; and that the amount  
" for which each such person is assessed upon the said roll truly and  
" correctly appears in the said notice delivered or transmitted to him as  
" aforesaid."

32 V. c. 36, s. 49 ; 36 V. c. 2, s. 4 ; 37 V. c. 19, s. 8.  
40 V. c. 8, s. 55.

Assessment  
rolls to be de-  
livered to  
clerks of muni-  
cipalities, etc.

**43.** Every Assessor shall, on or before the first day of May, deliver to the Clerk of the Municipality such assessment roll, completed and added up, with the certificates and affidavits attached ; and the Clerk shall immediately upon the receipt of the roll, file the same in his office, and the same shall, at all convenient office hours, be open to the inspection of all the householders, tenants, freeholders and income voters resident, owning or in possession of property, or in receipt of incomes in the Municipality. 32 V. c. 36, s. 50 ; 37 V. c. 19, s. 8.

*Special provisions relating to Counties, Cities, Towns and Villages.*

Time for  
taking the as-  
sessment and  
revising the  
rolls in cities,  
&c.

**44.** In Cities and Towns separate from the County, the Council, instead of being bound by the periods above mentioned for taking the assessment, and by the periods named for the revision of the rolls by the Court of Revision, and by the County Judge, may pass by-laws for regulating the above periods, as follows, that is to say :—For taking the assessment between the first day of July and the thirtieth day of September, the rolls being returnable in such case to the City or Town Clerk on the first day of October ; and in such case the time for closing the Court of Revision shall be the fifteenth day of November, and for final return by the Judge of the County Court the

thirty-first day of December; and the assessment so made and concluded may be adopted by the Council of the following year as the assessment on which the rate of taxation for said following year shall be levied, and in the year following the passing of the by-law, the Council may adopt the assessment of the preceding year as the basis of the assessment of that year. 39 V. c. 33, s. 1 (2).

**45.** In Cities, Towns and incorporated Villages, the Council may further pass by-laws for making the taxes payable to the Treasurer by instalments; and may in such case impose an additional per centage, now applicable to default of taxes if paid in bulk, on default in any of the instalments in which the same may be made payable. 39 V. c. 33, s. 1. (3)

Payment of  
taxes by  
instalments.

**46.** County Councils may pass by-laws for taking the assessment in Towns, Townships and incorporated Villages, between the first day of February and the first day of July.

County Council  
may pass  
by-laws for  
regulating the  
taking of as-  
sessment, &c.

2. If any such by-law extends the time for making and completing the assessment rolls beyond the first day of May, then the time for closing the Court of Revision shall be six weeks from the day to which such time is extended, and for final return by the Judge of the County, twelve weeks from that day. 39 V. c. 33, s. 2.

#### COURT OF REVISION.

**47.** If the Council of the Municipality consists of not more than five members, such five members shall be the Court of Revision for the Municipality. 32 V. c. 36, s. 51.

When council  
consists of five  
members only.

**48.** If the Council consists of more than five members, such Council shall appoint five of its members to be the Court of Revision. 32 V. c. 36, s. 52.

When of more  
than five.

**49.** Every member of the Court of Revision, before entering upon his duties, shall take and subscribe, before the Clerk of the Municipality, the following oath (or affirmation in cases where by law affirmation is allowed) :—

Oath of mem-  
bers of Court  
of Revision.

“ I , do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals to the Court of Revision which may be brought before me for trial as a member of said Court.”

37 V. c. 19, s. 9.

**50.** Three members of the Court of Revision shall be a quorum; and a majority of a quorum may decide all questions before the Court. 32 V. c. 36, c. 53.

**51.** The Clerk of the Municipality shall be Clerk of the Court, and shall record the proceedings thereof. 32 V. c. 36, s. 54.

Who to be  
Clerk.



Meetings of Court.

When first meeting of the Court to be held.

**52.** The Court may meet and adjourn, from time to time, at pleasure, or may be summoned to meet at any time by the head of the Municipality; but the first sitting of the Court of Revision shall not be held until after the expiration of at least ten days from the expiration of the time within which notice of appeals may be given to the Clerk of the Municipality. 32 V. e. 36, s. 55; 37 V. c. 19, s. 11.

Court to try all complaints, etc.

**53.** At the times or time appointed, the Court shall meet and try all complaints in regard to persons wrongfully placed upon or omitted from the roll, or assessed at too high or too low a sum. 32 V. e. 36, s. 58.

May administer oaths, etc.

**54.** The Court, or some member thereof, may administer an oath to any party or witness, before his evidence is taken, and may issue a summons to any witness to attend such Court. 32 V. e. 36, s. 56; 37 V. c. 19, s. 15. *See also sec. 56 (16.)*

Penalty to witnesses who refuse to attend.

**55.** If any person summoned to attend the Court of Revision as a witness fails, without good and sufficient reason, to attend (having been tendered compensation for his time at the rate of fifty cents a day), he shall incur a penalty of twenty dollars, to be recoverable, with costs, by and to the use of any person suing for the same, either by suit in the proper Division Court, or in any way in which penalties incurred under any by-law of the Municipality may be recovered. 37 V. c. 19, s. 10.

### *Proceeding for the Trial of Complaints.*

Notice of complaint by party aggrieved.

**56.** Any person complaining of an error or omission in regard to himself, as having been wrongfully inserted on or omitted from the roll, or as having been undercharged or overcharged by the Assessor in the roll, may personally or by his agent give notice in writing to the Clerk of the Municipality, (or Assessment Commissioner, if any there be), that he considers himself aggrieved for any or all of the causes aforesaid. 32 V. c. 36, s. 60 (1); 36 V. e. 48, s. 200.

Time within which notices of appeal to the Court are to be given.

**2.** The notice shall be given to the Clerk (or Assessment Commissioner, if any there be) within fourteen days after the day upon which the roll is required by law to be returned, or within fourteen days after the return of the roll, in case the same is not returned within the time fixed for that purpose. 37 V. c. 19, s. 12.

When elector thinks any person assessed at too low or too high a rate.

**3.** If a municipal elector thinks that any person has been assessed too low or too high, or has been wrongfully inserted on or omitted from the roll, he may within the time limited by the preceding sub-section give notice in writing to the Clerk of the Municipality, (or Assessment Commissioner, as the case may be) and the Clerk shall give notice to such person

and to the Assessor of the time when the matter will be tried by the Court of Revision ; and the matter shall be decided in the same manner as complaints by a person assessed. 32 V. c. 36, s. 60 (2) ; 37 V. c. 19, s. 12 ; 36 V. c. 48, s. 200.

4. The Clerk of the Court shall post up in some convenient and public place within the Municipality or Ward a list of all complainants, on their own behalf, against the Assessors' return, and of all complainants on account of the assessment of other persons, stating the names of each, with a concise description of the matter complained against, together with an announcement of the time when the Court will be held to hear the complaints; and no alteration shall be made in the roll, unless under a complaint formally made according to the above provisions. 32 V. c. 36, s. 60 (3).

5. The Clerk of the Court shall enter the appeals on the list in the order in which they are received by him, and the Court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. 37 V. c. 19, s. 14.

6. Such list may be in the following form :—

### Form of list of appeals

Appeals to be heard at the Court of Revision, to be held at  
on the                      day of                      18 .

Appellant.	Respecting whom.	Matter complained of.
A. B. ....	Self .....	Overcharged on land.
C. D. ....	E. F. ....	Name omitted.
G. H. ....	J. K. ....	Not <i>bona fide</i> owner or occupant.
L. M. ....	N. O. ....	Personal property undercharged.
&c.	&c.	

32 V. c. 36, s. 60 (5).

7. The Clerk shall also advertise in some newspaper published in the Municipality, or, if there be no such paper, then in some newspaper published in the nearest Municipality in which one is published, the time at which the Court will hold its first sittings for the year, and the advertisement shall be published at least ten days before the time of such first sittings. 32 V. c. 36, s. 60 (6); 37 V. c. 19, s. 11.

8. The Clerk shall also cause to be left at the residence of <sup>to leave a list</sup> each Assessor, a list of all the complaints respecting his roll, <sup>with assessor</sup>  
32 V. c. 36, s. 60 (7.)

9. The Clerk shall prepare a notice in the form following for each person with respect to whom a complaint has been made: and prepare notice to person complained against.

“Take notice, that you are required to attend the Court of Revision Form

at on the day of in the matter of the following appeal :

"Appellant,

G. H.

"Subject—That you are not a *bona fide* owner or occupant, (or as the case may be.)

"(Signed)

X. Y.,

Clerk."

"To J. K.

32 V. c. 36, s. 60 (8.)

Service to be at residence.

10. If the person resides or has a place of business in the local Municipality, the Clerk shall cause the notice to be left at the person's residence or place of business. 32 V. c. 36, s. 60 (9.)

How absentees served.

11. If the person is not known, then the notice shall be left with some grown person on the assessed premises, if there is any such person there resident; or if the person is not resident in the Municipality, then the notice shall be addressed to such person through the post office. 32 V. c. 36, s. 60 (10.)

When notice to be completed.

12. Every notice hereby required, whether by publication, advertisement, letter or otherwise, shall be completed at least six days before the sittings of the Court. 32 V. c. 36, s. 60 (11.)

Clerk may require assistance in making services.

Power to adjourn.

13. Where necessary, the Clerk of the Municipality may, at the cost of the Municipality, call to his aid such assistance as may be required to effect the services which he is required by law to make; and in the event of his failure to effect any such services in time for the first sitting of the Court, the Court, in its discretion, may appoint an adjourned sitting, for the purpose of hearing the appeals for which the services were not effected in time for the first day, and the proper services shall be made for such adjourned day. 37 V. c. 19, s. 13.

Proceedings, when party assessed complains of overcharge on personal property, etc.

Effect of declaration by each party.

14. If the party assessed complains of an overcharge on his personal property or taxable income, he or his agent may appear before the Court, and make a declaration, in case the complainant appears in person, in the form of Schedule C. D. or E. to this Act, according to the fact; and if the complainant appears by agent, such agent may make the declaration in the form of Schedule F. G. or H., as the case may be; and no abatement shall be made from the amount of income on account of debts due, nor from the value of personal property, other than income in respect of debts, except debts due for or on account of such personal property; and the Court shall thereupon enter the person assessed at such an amount of personal property or taxable income as is specified in such declaration, unless such Court is dissatisfied with the declaration, in which case the party making the declaration, and any witnesses whom it may be desirable to examine, may be examined on oath by such Court, respecting the correctness of such declaration; and such Court shall confirm, alter or amend the roll as the evidence seems to warrant. 32 V. c. 36, s. 60 (12.)



15. In other cases, the Court, after hearing the complainant, and the Assessor or Assessors, and any witness adduced, and, if deemed desirable, the party complained against, shall determine the matter, and confirm or amend the roll accordingly. 32 V. c. 36, s. 60 (13).

Proceedings  
in other cases

16. It shall not be necessary to hear upon oath the complainant or Assessor, or the party complained against, unless where the Court deems it necessary or proper, or the evidence of the party is tendered on his own behalf or required by the opposite party. 37 V. c. 19, s. 15.

Oaths of cer-  
tain parties  
not necessary.

17. If either party fails to appear, either in person or by an agent, the Court may proceed *ex parte*. 32 V. c. 36, s. 60 (14).

When to pro-  
ceed *ex parte*.

18. Where it appears that there are palpable errors which need correction, the Court may extend the time for making complaints ten days further, and may then meet and determine the additional matter complained of, and the Assessor may, for such purpose, be the complainant. 32 V. c. 36, s. 60 (4).

Extension of  
time for com-  
plaints,

19. Subject to the provisions of the forty-fourth and forty-sixth sections, all the duties of the Court of Revision, which relate to the matters aforesaid, shall be completed and the rolls finally revised by the Court, before the first day of July in every year—except in the Municipality of Shuniah, in which Municipality all the duties of the Court of Revision which relate to the matters aforesaid shall be completed, and the rolls finally revised, by the Court, before the fifteenth day of July in every year. 32 V. c. 36, s. 59; 37 V. c. 19, s. 11; 40 V. c. 31, s. 9.

and to finish  
business by  
July 1st.

Proviso as to  
Shuniah.

57. The roll, as finally passed by the Court, and certified by the Clerk as passed, shall, except in so far as the same may be further amended on appeal to the Judge of the County Court, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or mis-statement in the notice required by section forty-one of this Act, or the omission to deliver or transmit such notice. 40 V. c. 8, s. 56.

Roll to be  
binding, not-  
withstanding  
errors in it or  
in notice sent  
to persons as-  
sessed.

58. The Court shall also, before or after the first day of July, and with or without notice, receive and decide upon the petition from any person assessed for a teneiment which has remained vacant during more than three months in the year for which the assessment has been made, or from any person who declares himself, from sickness or extreme poverty, unable to pay the taxes, or who, by reason of any gross and manifest error in the roll as finally passed by the Court, has been overcharged more than twenty-five per cent. on the sum he ought to be charged; and the Court may, subject to the provisions of any by-law in this behalf, remit or reduce the taxes due by any such person,

Further pow-  
ers granted to  
Court of Re-  
vision for re-  
mitting or re-  
ducing taxes.

or reject the petition; and the Council of any local Municipality may, from time to time, make such by-laws, and repeal or amend the same. 32 V. c. 36, s. 62.

#### APPEALS FROM THE COURT OF REVISION.

Appeal from  
Court of Re-  
vision.

**59.** An appeal to the County Judge shall lie, not only against a decision of the Court of Revision on an appeal to said Court, but also against the omission, neglect or refusal of said Court to hear or decide an appeal.

Service of  
notice of  
appeal.

2. The person appealing shall, in person or by his attorney or agent, serve upon the Clerk of the Municipality (or Assessment Commissioner, if any there be), within five days after the date herein limited for closing the Court of Revision, a written notice of his intention to appeal to the County Judge—except in the Municipality of Shuniah, in which Municipality the notice shall be given within ten days after the first day of August in every year.

Proviso as to  
Shuniah.

Day for hear-  
ing.

3. The Judge shall notify the Clerk of the day he appoints for hearing appeals.

Clerk to notify  
parties.

4. The Clerk shall thereupon give notice to all the parties appealed against in the same manner as is provided for giving notice on a complaint under the fifty-sixth section of this Act; but in the event of failure by the Clerk to have the required service in any appeal made, or to have the same made in proper time, the Judge may direct service to be made for some subsequent day upon which he may sit.

List of appel-  
lants, &c., to  
be posted up  
by clerk.

5. The Clerk of the Municipality shall cause a conspicuous notice to be posted up in his office, or the place where the Council of the Municipality hold their sittings, containing the names of all the appellants and parties appealed against, with a brief statement of the ground or cause of appeal, together with the date at which a Court will be held to hear appeals.

Clerk of  
Court.

6. The Clerk of the Municipality shall be the Clerk of such Court.

Hearing and  
adjournment.

7. At the Court so holden, the Judge shall hear the appeals and may adjourn the hearing from time to time, and defer judgment thereon at his pleasure, but so that all the appeals may be determined before the first day of August—except in the Municipality of Shuniah (in which Municipality all such appeals shall be determined before the fifteenth day of September in every year), and except in the cases provided for in sections forty-four and forty-six. 37 V. c. 19, s. 16; 40 V. c. 31, s. 10.

Proviso as to  
Shuniah, &c.

Assessment  
roll to be pro-  
duced to the

**60.** At the Court to be holden by the County Judge, or acting Judge of the Court, to hear the appeals hereinbefore provided for, the person having charge of the assessment roll

passed by the Court of Revision shall appear and produce such roll, and all papers and writings in his custody connected with the matter of appeal, and such roll shall be altered and amended according to the decision of the Judge, if then given, who shall write his initials against any part of the said roll in which any mistake, error or omission is corrected or supplied; and if the decision is not then given the Clerk of the Court shall, when the same is given, forthwith alter and amend the roll, according to the same, and shall write his name against every such alteration or correction. 32 V. c. 36, s. 65.

Court, and amended, etc.

Amendments how certified.

**61.** In all proceedings before the County Judge or acting Judge of the Court, under or for the purposes of this Act, such Judge shall possess all such powers for compelling the attendance of, and for the examination on oath of all parties, whether claiming, or objecting or objected to, and all other persons whatsoever, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him, in the Division Court or in the County Court, either in Term time or vacation. 32 V. c. 36, s. 66; 37 V. c. 19, s. 17.

Powers of Judge sitting in appeal from Court of Revision.

**62.** All process or other proceedings in, about or by way of appeal, may be entitled as follows:—

Style of proceedings.

In the matter of appeal from the Court of Revision of the  
 , of

\_\_\_\_\_, Appellant,

and

\_\_\_\_\_, Respondent,

and the same need not be otherwise entitled. 37 V. c. 19, s. 17.

**63.** The cost of any proceeding before the Court of Revision or before the Judge as aforesaid shall be paid by or apportioned between the parties in such manner as the Court or Judge thinks fit, and where costs are ordered to be paid by any party claiming or objecting or objected to, or by any Assessor, Clerk of a Municipality, or other person, the same shall be enforced, when ordered by the Court of Revision, by a distress warrant under the hand of the Clerk and the corporate seal of the Municipality, and when ordered by the Judge, by execution to be issued as the Judge may direct, either from the County Court or the Division Court within the County of which the Municipality or assessment district, or some part thereof, is situated, in the same manner as upon an ordinary judgment for costs recovered in such Court. 32 V. c. 36, s. 67; 37 V. c. 19, s. 18.

Costs to be apportioned by the Judge, and how enforced.

**64.** The costs chargeable or to be awarded in any case may be the costs of witnesses, and of procuring their attendance and none other; and the same are to be taxed according to the allowance in the Division Court for such costs; and in cases

What costs chargeable.



where execution issues, the costs thereof as in the like Court, and of enforcing the same, may also be collected thereunder. 37 V. c. 19, s. 19.

Decision of  
County Judge  
to be final.

**65.** The decision and judgment of the Judge or acting Judge shall be final and conclusive in every case adjudicated, and the Clerk of the Municipality shall amend the rolls accordingly. 32 V. c. 36, s. 69.

Copy of roll to  
be transmitted  
to county  
clerk.

**66.** When, after the appeal provided by this Act, the assessment roll has been finally revised and corrected, the Clerk of the Municipality shall, without delay, transmit to the County Clerk a certified copy thereof. 32 V. c. 36, s. 70.

#### NON RESIDENTS' APPEALS.

Appeals with  
respect to non-  
residents

**67.** In case any non-resident, whose land within the limits of any City, Town, incorporated Village or Township, has been assessed in any revised and corrected assessment roll, complains by petition to the proper Municipal Council, at any time before the first day of May in the year next following that in which the assessment is made, such Council shall, at its first meeting, after one week's notice to the appellant, try and decide upon such complaint; and all decisions of Municipal Councils under this Act may be appealed from, tried and decided, as provided by the fifty-ninth and following sections of this Act; and if the lands are found to have been assessed twenty-five per centum higher than similar land belonging to residents, the Council or Judge shall order the taxes rated on such excess to be struck off; and, in all such cases, where the land has been subdivided into park, village or town lots, if the same are owned by the same person or persons, the statute labour tax shall be charged only upon the aggregate of the assessment, according to the provisions of this Act; but no roll shall be amended, under this section of this Act, if the complaint was tried and decided before such roll was finally revised and corrected, under the provisions of the fifty-sixth to sixty-sixth sections of this Act. 32 V. c. 36, s. 64.

Lots subdivided not to  
affect rolls  
revised and  
corrected.

#### EQUALIZATION OF ASSESSMENTS.

Annual exam-  
ination of as-  
sessment rolls  
by municipal  
councils, and  
for what pur-  
pose.

**68.** The Council of every County shall, yearly, before imposing any County rate, and except as provided by sections forty-four and forty-six, not later than the first day of July, examine the assessment rolls of the different Townships, Towns and Villages in the County, for the preceding financial year, for the purpose of ascertaining whether the valuation made by the Assessors in each Township, Town or Village for the current year, bears a just relation to the valuation so made in all such Townships, Towns and Villages, and may, for the purpose of County rates, increase or decrease the aggregate valuations of real and personal property in any Township, Town or Village,

adding or deducting so much per centum as may, in their opinion, be necessary to produce a just relation between the valuations of real and personal estate in the County; but they shall not reduce the aggregate valuation thereof for the whole County as made by the Assessors. 32 V. c. 36, s. 71 (1).

2. If any local Municipality is dissatisfied with the action of any County Council in increasing or decreasing or refusing to increase or decrease the valuation of any Municipality, the Municipality so dissatisfied may appeal from the decision of the Council to the Judge of the County Court of the County at any time within ten days after such decision, by giving to the Judge and the Clerk of the County Council a notice in writing, under the seal of the Municipality, of such appeal; and the County Judge shall appoint a day for hearing the appeal, not later than ten days from the receipt of such notice of the appeal, and may, at such Court, proceed to hear and determine the matter of appeal, or adjourn the hearing thereof, from time to time; but except as provided in sections forty-four and forty-six, the same shall not be adjourned or judgment deferred beyond the first day of August next after notice of the appeal; and the Judge shall equalize the whole assessment of the County. 32 V. c. 36, s. 71 (3); 37 V. c. 19, s. 23.

Local municipality may appeal.

Proviso.

69. If the Clerk of the Municipality has neglected to transmit a certified copy of the assessment roll, such neglect shall not prevent the County Council from equalizing the valuations in the several Municipalities according to the best information obtainable; and any rate imposed, according to the equalized assessment, shall be as valid as if all the assessment rolls had been transmitted. 32 V. c. 36, s. 72.

Effect of clerk of municipality omitting to send copy of roll.

70. In cases where valuers are appointed by the Council to value all the real and personal property within the County, they shall attest their report by oath or affirmation in the same manner as Assessors are required to verify their rolls by the one hundred and tenth section of this Act. 32 V. c. 36, s. 73.

Valuers to attest their report on oath.

71. The Council of a County, in apportioning a County rate among the different Townships, Towns and Villages within the County, shall, in order that the same may be assessed equally on the whole rateable property of the County, make the amount of property returned on the assessment rolls of such Townships, Towns and Villages, or reported by the valuers as finally revised and equalized for the preceding year, the basis upon which the apportionment is made. 32 V. c. 36, s. 74.

Apportionment of county rates, how to be based.

72. Where a new Municipality is erected within a County, so that there are no assessment or valuers' rolls of the new Municipality for the next preceding year, the County Council shall, by examining the rolls of the former Municipality or

Case of new municipalities.

Municipalities of which the new Municipality then formed part, ascertain, to the best of their judgment, what part of the assessment of the Municipality or Municipalities had relation to the new Municipality, and what part should continue to be accounted as the assessment of the original Municipality, and their several shares of the County tax shall be apportioned between them accordingly. 32 V. c. 36, s. 75.

County councils to apportion sums required for county purposes.

**73.** Where a sum is to be levied for County purposes, or by the County for the purposes of a particular locality, the Council of the County shall ascertain, and, by by-law, direct what portion of such sum shall be levied in each Township, Town or Village in such County or locality. 32 V. c. 36, s. 76.

County Clerk to certify amounts to clerks of local municipalities.

**74.** Subject to the provisions of sections forty-four and forty-six the County Clerk shall, before the fifteenth day of August in each year, certify to the Clerk of each Municipality in the County, the total amount which has been so directed to be levied therein for the then current year, for County purposes, or for the purposes of any such locality; and the Clerk of the Municipality shall calculate and insert the same in the Collector's roll for that year. 32 V. c. 36, s. 77.

Act not to affect provisions for rates to raise interest on county debentures.

**75.** Nothing in this Act contained shall alter or invalidate any special provisions for the collection of a rate for interest on County debentures, whether such provisions are contained in any Municipal Corporations Act heretofore or still in force in this Province, or in any Act respecting the Consolidated Municipal Loan Fund in Ontario or in any general or special Act authorizing the issue of debentures, or in any by-law of the County Council providing for the issue of the same. 32 V. c. 36, s. 78.

#### STATUTE LABOUR.

Certain persons in military service exempt.

**76.** No person in Her Majesty's Naval or Military Service on full pay, or on actual service, shall be liable to perform statute labour or to commute therefor; nor shall any non-commissioned officer or private of the Volunteer Force, certified by the officer commanding the company to which such volunteer belongs or is attached as being an efficient volunteer: but this last exemption shall not apply to any volunteer who is assessed for property. 40 V. c. 27, s. 1. (*Firemen exempted in certain cases. See Rev. Stat. c. 178, s. 6.*)

Who liable, and in what ratio, in cities, towns and villages.

**77.** Every other male inhabitant of a City, Town or Village of the age of twenty-one years and upwards, and under sixty years of age (and not otherwise exempted by law from performing statute labour), who has not been assessed upon the assessment roll of the City, Town or Village, or whose taxes do not amount to two dollars, shall, instead of such labour, be taxed at two dollars yearly therefor, to be levied and collected at such time, by such person, and in such manner as the Coun-



cil of the Municipality may, by by-law, direct, and such inhabitant shall not be required to have any property qualification. 32 V. c. 36, s. 80.

**78.** No person shall be exempt from the tax in the last preceding section named, unless he produces a certificate of his having performed statute labour or paid the tax elsewhere. 32 V. c. 36, s. 81.

Where to be performed.

**79.** Every male inhabitant of a Township, between the ages aforesaid, who is not otherwise assessed, and who is not exempt by law from performing statute labour, shall be liable to two days of statute labour on the roads and highways in the Township, and no Council shall have any power to reduce the statute labour required under this section. 32 V. c. 36, s. 82.

Liability of persons not otherwise assessed in townships.

**80.** Every person assessed upon the assessment roll of a Township shall, if his property is assessed at not more than three hundred dollars, be liable to two days' statute labour; at more than three hundred dollars, but not more than five hundred dollars, three days; at more than five hundred dollars, but not more than seven hundred dollars, four days; at more than seven hundred dollars, but not more than nine hundred dollars, five days; and for every three hundred dollars over nine hundred dollars or any fractional part thereof over one hundred and fifty dollars, one additional day; but the Council of any Township, by a by-law operating generally and rateably, may reduce or increase the number of days' labour to which all the parties, rated on the assessment roll or otherwise, shall be respectively liable, so that the number of days' labour to which each person is liable shall be in proportion to the amount at which he is assessed. 32 V. c. 36, s. 83 (1).

Ratio of service in case of persons assessed.

Council may reduce or increase the number of days proportionately.

**2.** In Townships where farm lots have been subdivided into park or village lots, and the owners are not resident, and have not required their names to be entered on the assessment roll, the statute labour shall be commuted by the Township Clerk, in making out the list required under the ninetieth section of this Act, where such lots are under the value of two hundred dollars, to a rate not exceeding one half per centum on the valuation; but the Council may direct a less rate to be imposed by a general by-law affecting such village lots. 32 V. c. 36, s. 83 (2).

Lots subdivided as park lots, etc.

**81.** The Council of any Township may, by by-law, direct that a sum not exceeding one dollar a day shall be paid as commutation of statute labour, in which case the commutation tax shall be added in a separate column in the Collector's roll, and shall be collected and accounted for like other taxes. 32 V. c. 36, s. 84; 34 V. c. 28, s. 2; 40 V. c. 7, *Sched. A* (188).

Commutation may be at \$1 per day.

Commutation  
may be fixed  
at any sum not  
exceeding \$1.

**82.** Any local Municipal Council may, by a by-law passed for that purpose, fix the rate at which parties may commute their statute labour, at any sum not exceeding one dollar for each day's labour, and the sum so fixed shall apply equally to residents who are subject to statute labour, and to non-residents in respect to their property. 32 V. c. 36, s. 85.

If no by-law,  
commutation  
to be at \$1.

**83.** Where no such by-law has been passed, the statute labour in Townships, in respect of lands of non-residents, shall be commuted at the rate of one dollar for each day's labour. 32 V. c. 36, s. 86; 34 V. c. 28, s. 3; 40 V. c. 7, *Sched. A* (189).

Farmers' sons.

**84.** Every farmer's son rated and entered as such on the assessment roll of any Municipality, shall, if not otherwise exempted by law, be liable to perform statute labour or commute therefor, as if he were not so rated and assessed. 40 V. c. 9, s. 7; c. 10, s. 5 (2).

Payment of  
tax in lieu of  
statute labour  
may be en-  
forced by dis-  
tress or im-  
prisonment.

**85.** Any person liable to pay the sum named in the seventy-seventh section, or any sum for statute labour commuted under the eighty-first section of this Act, shall pay the same to the Collector to be appointed to collect the same, within two days after demand thereof by the said Collector; and in case of neglect or refusal to pay the same, the Collector may levy the same by distress of goods and chattels of the defaulter, with costs of the distress; and if no sufficient distress can be found, then upon summary conviction before a Justice of the Peace of the County in which the local Municipality is situate, of his refusal or neglect to pay the said sum, and of there being no sufficient distress, he shall incur a penalty of five dollars with costs, and, in default of payment at such time as the convicting Justice shall order, shall be committed to the Common Gaol of the County, and be there put to hard labour for any time not exceeding ten days, unless such penalty and costs and the costs of the warrant of commitment and of conveying the said person to gaol are sooner paid.

2. Any person liable to perform statute labour under the seventy-ninth section of this Act not commuted, shall perform the same when required so to do by the Pathmaster or other officer of the Municipality appointed for the purpose; and, in case of wilful neglect or refusal to perform such labour after six days' notice requiring him to do the same, shall incur a penalty of five dollars, and upon summary conviction thereof before a Justice of the Peace aforesaid, such Justice shall order the same, together with the costs of prosecution and distress, to be levied by distress of the offender's goods and chattels, and, in case there is no sufficient distress, such offender may be committed to the Common Gaol of the County and there put to hard labour for any time not exceeding ten days, unless such penalty and costs and the costs of the warrant of com-

mitment and of conveying the said person to gaol are sooner paid.

3. All sums and penalties, other than costs, recovered under this section, shall be paid to the Treasurer of the local Municipality, and form part of the Statute Labour Fund thereof. 32 V. c. 36, s. 87; and see *Rev. Stat. c. 185, s. 7.*

**86.** No non-resident who has not required his name to be entered on the roll, shall be permitted to perform statute labour in respect of any land owned by him, but a commutation tax shall be charged against every separate lot or parcel according to its assessed value; and, in all cases in which the statute labour of a non-resident is paid in money, the Municipal Council shall order the same to be expended in the statute labour division where the property is situate, or where the said statute labour tax is levied. 32 V. c. 36, s. 88.

Non-residents when not admitted to perform statute labour.

**87.** In case any non-resident, whose name has been entered on the resident roll, does not perform his statute labour or pay commutation for the same, the Overseer of the Highways in whose division he is placed shall return him as a defaulter to the Clerk of the Municipality, before the fifteenth day of August, and the Clerk shall in that case, enter the commutation for statute labour against his name in the Collector's roll; and in all cases both of residents and non-residents, the statute labour shall be rated and charged against every separate lot or parcel according to its assessed value.

When non-residents admitted, but do not perform statute labour.

Amount of non-residents' statute labour.

2. Whenever one person is assessed for lots or parts of several lots in one Municipality, not exceeding in the aggregate two hundred acres, the said part or parts shall be rated and charged for statute labour as if the same were one lot, and the statute labour shall be rated and charged against any excess of said parts in like manner; but every resident shall have the right to perform his whole statute labour in the statute labour division in which his residence is situate, unless otherwise ordered by the Municipal Council. 32 V. c. 36, s. 89; 33 V. c. 27, s. 6.

Proviso.

#### COLLECTION OF RATES.

**88.** The Clerk of every local Municipality shall make a Collector's roll or rolls as may be necessary, containing columns for all information required by this Act, to be entered by the Collector therein; and in such roll or rolls he shall set down the name in full of every person assessed, and the assessed value of his real and personal property and taxable income, as ascertained after the final revision of the assessments, and he shall calculate, and, opposite the said assessed value as therein described of each respective person, he shall set down in one column to be headed "*County Rates*," the amount for which the person is chargeable for any sums ordered to be levied by the Council of the County

Clerks of municipalities to make out collectors' rolls; their form, contents, etc.



for County purposes, and in another column to be headed "*Township Rate*," "*Village Rate*," "*Town Rate*" or "*City Rate*," as the case may be, the amount with which the person is chargeable in respect of sums ordered to be levied by the Council of the local Municipality for the purposes thereof, or for the commutation of statute labour, and in other columns any special rate for collecting the interest upon debentures issued, or any local rate or school rate or other special rate, the proceeds of which are required by law, or by the by-law imposing it, to be kept distinct and accounted for separately; and every such last-mentioned rate shall be calculated separately, and the column therefor headed "*Special Rate*," "*Local Rate*," "*Public School Rate*," "*Separate School Rate*," or "*Special Rate for School Debts*," as the case may be. 32 V. c. 36, s. 90; 40 V. c. 16, s. 13 (2, 4 b.)

Provincial taxes to be assessed and collected in same manner as local rates.

**89.** All moneys assessed, levied and collected under any Act by which the same are made payable to the Treasurer of this Province, or other public officer for the public uses of the Province, or for any special purpose or use mentioned in the Act, shall be assessed, levied and collected in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the Collectors' roll, in separate columns, in the heading whereof shall be designated the purpose of the rate; and the Clerk shall deliver the roll, certified under his hand, to the Collector, on or before the first day of October, or such other day as may be prescribed by a by-law of the local Municipality. 32 V. c. 36, s. 91.

Clerk to make out rolls of lands of non-residents whose names not in assessment rolls, etc.

**90.** The Clerk of every local Municipality shall also make out a roll in which he shall enter the lands of non-residents whose names have not been set down in the Assessor's roll, together with the value of every lot, part of lot, or parcel, as ascertained after the revision of the rolls; and he shall enter opposite to each lot or parcel, all the rates or taxes with which the same is chargeable, in the same manner as is provided for the entry of rates and taxes upon the Collector's roll, and shall transmit the roll so made out, certified under his hand, to the Treasurer of the County in which his Municipality is situate, or to the Treasurer of the City or Town, as the case may be, on or before the first day of November. 32 V. c. 36, s. 92; 40 V. c. 7, *Sched. A* (190).

#### COLLECTORS AND THEIR DUTIES.

Duties of collectors.

**91.** The Collector, upon receiving his collection roll, shall proceed to collect the taxes therein mentioned. 32 V. c. 36, s. 93.

To demand payment of rates.

**92.** He shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local Municipality in and for which such Collector has been appointed, and shall demand payment of the taxes

payable by such person, and shall, at the time of such demand, enter the date thereof on his collection roll opposite the name of the person taxed; and such entry shall be *prima facie* evidence of such demand. 32 V. c. 36, s. 94.

**93.** In case any person neglects to pay his taxes for fourteen days after such demand as aforesaid, the Collector may, by himself or by his agent, levy the same with costs, by distress of the goods and chattels of the person who ought to pay the same, or of any goods or chattels in his possession, wherever the same may be found within the County in which the local Municipality lies, or of any goods or chattels found on the premises, the property of, or in the possession of, any other occupant of the premises; and the costs chargeable shall be those payable to bailiffs under "*The Division Courts Act.*" 32 V. c. 36, s. 95.

When payment is not made, collectors to levy the tax by distress and sale. Rev. Stat. c. 47.

**94.** If any person whose name appears on the roll is not resident within the Municipality, the Collector shall transmit to him by post, addressed in accordance with the notice given by such non-resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall at the time of such transmission enter the date thereof on the roll opposite the name of such person; and such entry shall be *prima facie* evidence of such transmission and of the time thereof. 32 V. c. 36, s. 96.

Proceedings in case of non-residents.

**95.** In case of the land of non-residents, who have required their names to be entered on the roll, the Collector, after one month from the date of the delivery of the roll to him, and after fourteen days from the time such demand as aforesaid has been so transmitted by post, may make distress of any goods and chattels which he may find upon the land; and no claim of property, lien or privilege shall be available to prevent the sale, or the payment of the taxes and costs out of the proceeds thereof. 32 V. c. 36, s. 97.

When Collectors may distrain for rates on non-residents' land.

**96.** The Collector shall, by advertisement posted up in at least three public places in the Township, Village or Ward wherein the sale of the goods and chattels distrained is to be made, give at least six days' public notice of the time and place of such sale, and of the name of the person whose property is to be sold; and, at the time named in the notice, the Collector or his agent shall sell at public auction the goods and chattels distrained, or so much thereof as may be necessary. 32 V. c. 36, s. 98.

Public notice of sale to be given, and in what manner.

**97.** If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person, on the ground that the property sold belonged to him, or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the

Surplus, if unclaimed, to be paid to party in whose possession the goods were;

person in whose possession the property was when the distress was made. 32 V. c. 36, s. 99.

or to admitted claimant.

**98.** If any such claim is made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus shall be paid to the claimant. 32 V. c. 36, s. 100.

When the right to such surplus contested.

**99.** If the claim is contested, such surplus money shall be paid over by the Collector to the Treasurer of the local Municipality, who shall retain the same until the respective rights of the parties have been determined by action at law or otherwise. 32 V. c. 36, s. 101.

Taxes not otherwise recoverable to be recovered by action.

**100.** If the taxes payable by any person cannot be recovered in any special manner provided by this Act, they may be recovered with interest and costs, as a debt due to the local Municipality, in which case the production of a copy of so much of the Collector's roll as relates to the taxes payable by such person, purporting to be certified as a true copy by the Clerk of the local Municipality, shall be *prima facie* evidence of the debt. 32 V. c. 36, s. 102.

Collector to return his roll and pay over proceeds by the day to be appointed by Council.

**101.** On or before the fourteenth day of December in every year, or on such day in the next year not later than the first February, as the Council of the Municipality may appoint, every Collector shall return his roll to the Treasurer, and shall pay over the amount payable to such Treasurer, specifying in a separate column on his roll how much of the whole amount paid over is on account of each separate rate; and shall make oath before the Treasurer that the date of the demand of payment and transmission of statement and demand of taxes, required by sections ninety-two and ninety-four in each case, has been truly stated by him in the roll. 32 V. c. 36, s. 103; 33 V. c. 27, s. 7.

other persons may be employed to collect taxes which Collector does not collect by a certain day.

**102.** In case the Collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as in the last preceding section mentioned, the Council of the City, Town, Village or Township may, by resolution, authorize the Collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes, in the manner and with the powers provided by law for the general levy and collection of taxes.

2. No such resolution or authority shall alter or affect the duty of the Collector to return his roll, or shall, in any manner whatsoever, invalidate or otherwise affect the liability of the Collector or his sureties. 32 V. c. 36, s. 104.

Proceedings when taxes are unpaid, and cannot be collected.

**103.** If any of the taxes mentioned in the Collector's roll remain unpaid, and the Collector is not able to collect the same, he shall deliver to the Treasurer of his Municipality an account of all the taxes remaining due on the roll; and, in such



account, the Collector shall show, opposite to each assessment, the reason why he could not collect the same by inserting in each case the words "*Non-Resident*" or "*Not sufficient property to distrain*," or "*Instructed by Council not to collect*," as the case may be. 32 V. c. 36, s. 105; 40 V. c. 7, *Sched. A* (191).

**104.** Upon making oath before the Treasurer that the sums mentioned in such account remain unpaid, and that he has not, upon diligent inquiry, been able to discover sufficient goods or chattels belonging to or in possession of the persons charged with or liable to pay such sums, or on the premises belonging to or in the possession of any occupant thereof, whereon he could levy the same, or any part thereof, the Collector shall be credited with the amount not realized. 32 V. c. 36, s. 106.

When thus not collected, collectors to be credited with amount.

**105.** The taxes accrued on any land shall be a special lien on such land, having preference over any claim, lien, privilege or incumbrance of any party except the Crown, and shall not require registration to preserve it. 32 V. c. 36, s. 107.

Taxes to be a lien upon land.

#### YEARLY LISTS OF LANDS GRANTED BY THE CROWN.

**106.** The Commissioner of Crown Lands shall, in the month of February in every year, transmit to the Treasurer of every County a list of all the land within the County located as free grants, sold or agreed to be sold by the Crown, or leased, or in respect of which a license of occupation issued during the preceding year. 32 V. c. 36, s. 108 *See also Rev. Stat. c. 23, s. 36.*

Annual lists of lands granted, etc., to be furnished by Commissioner of Crown Lands.

**107.** The County Treasurer shall furnish to the Clerk of each local Municipality in the County a copy of the said lists, so far as regards lands in such Municipality, and such Clerk shall furnish the Assessors respectively with a statement showing what lands in the said annual list are liable to assessment within such Assessor's assessment district. 32 V. c. 36, s. 109.

County treasurers to furnish copies of lists to clerks of municipalities.

#### ARREARS OF TAXES.

##### *Duties of Treasurers, Clerks and Assessors in relation thereto.*

**108.** The Treasurer of every County shall furnish to the Clerk of each Municipality, except Cities and Towns, in the County, and the Treasurer of every City and Town shall furnish to the Clerk of his Municipality, a list of all the lands in his Municipality in respect of which any taxes have been in arrear for the three years next preceding the first day of January in any year; and the said list shall be so furnished on or before the first day of February in every year, and shall be headed in the words following: "*List of lands liable to be sold for ar-*

County treasurer to furnish local clerks with lists of lands three years in arrears for taxes.

"*rears of taxes in the year one thousand eight hundred and* ;" and, for the purposes of this Act, the taxes for the first year of the three which have expired under the provisions of this Act, on any land to be sold for taxes, shall be deemed to have been due for three years, although the same may not have been placed upon a Collector's roll until some month in the year later than the month of January. 32 V. c. 36, s. 110 ; 40 V. c. 7, *Sched. A* (192).

Local clerks to keep the lists in their offices open to inspection, give copies to assessors, notify occupants, etc.

**109.** The Clerk of the Municipality is hereby required to keep the said list, so furnished by the Treasurer, on file in his office, subject to the inspection of any person requiring to see the same, and he shall also deliver to the Assessor or Assessors of the Municipality, in each year, as soon as such Assessor or Assessors are appointed, a copy of such list ; and it shall be the duty of the Assessor or Assessors to ascertain if any of the lots or parcels of land contained in such list are occupied, or are incorrectly described, and to notify such occupants and also the owners thereof, if known whether resident within the Municipality or not, upon their respective assessment notices, that the land is liable to be sold for arrears of taxes, and enter in a column (to be reserved for the purpose) the words "*Occupied and Parties Notified*," or "*Not Occupied*," as the case may be ; and all such lists shall be signed by the Assessor or Assessors and returned to the Clerk with the assessment roll, together with a memorandum of any error discovered therein, and the Clerk shall file the same in his office for public use ; and every such list, or copy thereof, shall be received in any Court as evidence in any case arising concerning the assessment of such lands. 32 V. c. 36, s. 111 ; 33 V. c. 27, s. 9 ; 40 V. c. 7 *Sched. A* (193). *And see post*, s. 185.

Lists to be evidence.

Assessor's certificate.

**110.** The Assessors shall attach to each such list a certificate signed by them, and verified by oath or affirmation, in the form following :—

"I do certify that I have examined all the lots in this list named : and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known ; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief."

32 V. c. 36, s. 112.

Local clerks to certify lands which have become occupied.

**111.** The Clerk of each Municipality shall examine the assessment roll when returned by the Assessor, and ascertain whether any lot embraced in the said list last received by him from the Treasurer pursuant to the one hundred and eighth section, is entered upon the roll of the year as then occupied, or is incorrectly described ; and shall forthwith furnish to the said Treasurer a list of the several parcels of land which appear on the resident roll as having become occupied, or which have been returned by the Assessor as incorrectly described.

2. Except in the cases provided for by sections forty-four and forty-six, on or before the first day of July in the then current year, the County Treasurer shall return to the Clerk of each local Municipality other than a City or Town, and every City or Town Treasurer shall return to the Clerk of the City or Town, an account of all arrears of taxes due in respect of such occupied lands, including the per-centage chargeable under section one hundred and twenty-four of this Act.

County Treasurer to certify taxes due on them.

3. The Clerk of each Municipality shall, in making out the Collector's roll of the year, add such arrears of taxes to the taxes assessed against such occupied lands for the current year; and such arrears shall be collected in the same manner and subject to the same conditions as all other taxes entered upon the Collector's roll. 32 V. c. 36, s. 113; 40 V. c. 7, *Sched. A* (193 & 194).

Clerk to insert such amount on Collector's roll.

112. If there is not sufficient distress upon any of the occupied lands, in the preceding section named, to satisfy the total amount of the taxes charged against the same, as well for the arrears as for the taxes of the current year, the Collector shall so return it in his roll to the Treasurer of the Municipality, showing the amount collected, if any, and the amount remaining unpaid, and stating the reason why payment has not been made. 32 V. c. 36, s. 114.

When there is not sufficient distress on such lands.

113. The Treasurer of every Township and Village shall, within fourteen days after the time appointed for the return and final settlement of the Collector's roll, and before the eighth day of April in every year, furnish the County Treasurer with a statement of all unpaid taxes and school rates directed in the said Collector's roll or by School Trustees to be collected.

Statement of arrears to be returned by local Treasurer, and when.

2. Such return shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, on lands of non-residents which have become occupied, as required by section one hundred and nine of this Act, and generally such other information as the County Treasurer may require and demand, in order to enable him to ascertain the just tax chargeable upon any land in the Municipality for that year; and the County Treasurer shall not be bound to receive any such statement after the eighth day of April in each year. 32 V. c. 36, s. 115; 40 V. c. 7, *Sched. A* (195).

114. In case it is found by the statement directed by the last preceding section to be made to the County Treasurer, that the arrears of taxes upon the occupied lands of non-residents, directed by the one hundred and eleventh section of this Act to be placed on the Collector's roll, or any part thereof, remain in arrear, such land shall be liable to be sold for such arrears, and shall be included in the next or ensuing list of lands to be sold by the County Treasurer, under the provisions of the one hundred and twenty-seventh section of this Act, not-

Liability of lands to sale if arrears are not paid, and when.



withstanding that the same may be occupied in the year when such sale takes place; and such arrears shall not again be placed upon the Collector's roll for collection. 32 V. c. 36, s. 116.

Penalty on Clerks and Assessors neglecting duties under preceding sections.

**115.** If the Clerk of any Municipality neglects to preserve the said list of lands in arrears for taxes, furnished to him by the Treasurer, in pursuance to the one hundred and eighth section, or to furnish copies of such lists, as required, to the Assessor or Assessors, or neglects to return to the Treasurer a correct list of the lands which have come to be occupied, as required by the one hundred and eleventh section of this Act, and a statement of the balances which remain uncollected on any such lots, as required by the one hundred and twelfth section of this Act; or if any Assessor or Assessors neglect to examine such lands as are entered on each such list, and make returns in manner hereinbefore directed, every officer making such default shall, on summary conviction thereof before any two Justices of the Peace having jurisdiction in the County in which such Municipality is situated, be liable to the penalties imposed by sections one hundred and eighty nine, one hundred and ninety and one hundred and ninety-one of this Act; all fines so imposed shall be recoverable by distress and sale of any goods and chattels of the party making default. 32 V. c. 36, s. 117; 40 V. c. 7, *Sched. A* (196).

How to be levied.

After return of roll who to receive taxes.

**116.** After the Collector's roll has been returned to the Treasurer of a Township or Village, and before such Treasurer has furnished the statement to the County Treasurer, mentioned in section one hundred and thirteen, arrears of taxes may be paid to such local Treasurer; but after the said statement has been referred to the County Treasurer, no more money on account of the arrears then due shall be received by any officer of the Municipality to which the roll relates. 32 V. c. 36, s. 118.

After statement under sec. 113, collection of arrears to belong to County Treasurer only.

2. The collection of the arrears shall thenceforth belong to the Treasurer of the County alone, and he shall receive payment of such arrears, and of all taxes on lands of non-residents, and he shall give a receipt therefor specifying the amount paid, for what period, the description of the lot or parcel of land, and the date of payment, in accordance with the provisions of section one hundred and eighty-six of this Act. 32 V. c. 36, s. 119 (1).

Municipalities may remit taxes due on non-residents' lands.

**117.** Any local Municipality may, by by-law, remit, either in the whole or in part, any taxes now due or to become due upon the lands of non-residents within such Municipality, specifying the particular lands upon which the remission is made; and, upon the passing of such by-law, it shall be the duty of the Clerk forthwith to transmit a copy of the by-law to the Treasurer or other officer having the collection of such arrears, who shall then collect only so much of said taxes as are not remitted. 32 V. c. 36, s. 119 (2).

**118.** The Treasurer shall not receive any part of the tax charged against any parcel of land unless the whole of the arrears then due is paid, or satisfactory proof is produced of the previous payment, or erroneous charge of any portion thereof; but if satisfactory proof is adduced to him that any parcel of land on which taxes are due has been subdivided, he may receive the proportionate amount of tax chargeable upon any of the subdivisions, and leave the other subdivisions chargeable with the remainder; and the Treasurer may, in his books, divide any piece or parcel of land which has been returned to him in arrear for taxes, into as many parts as the necessities of the case may require. 32 V. c. 36, s. 120.

The whole amount to be paid at once, unless the land is subdivided.

**119.** The Treasurer shall, on demand, give to the owner of any land charged with arrears of taxes, a written statement of the arrears at that date, and he may charge twenty cents for the search on each separate lot or parcel not exceeding four, and, for every additional ten lots, a further fee of twenty cents; but the Treasurer shall not make any charge for search to any person who forthwith pays the taxes. 32 V. c. 36, s. 121.

If demanded, Treasurer to give a written statement of arrears.

**120.** The Treasurer of every County shall keep a separate book for each Township and Village, in which he shall enter all the lands in the Municipality on which it appears from the returns made to him by the Clerk and from the Collector's roll returned to him, that there are any taxes unpaid, and the amounts so due; and he shall, on the first day of May in every year, complete and balance his books by entering against every parcel of land, the arrears, if any, due at the last settlement, and the taxes of the preceding year which remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. 32 V. c. 36, s. 122.

Lands on which taxes unpaid to be entered in certain books by Treasurer.

**121.** If, at the yearly settlement to be made on the first day of May, it appears to the Treasurer that any land liable to assessment has not been assessed, he shall report the same to the Clerk of the Municipality; thereupon, or if it comes to the knowledge of the Clerk in any other manner that such land has not been assessed, the Clerk shall, under the direction of the Council, enter such land on the Collector's roll next prepared by him thereafter, or on the roll of non-residents, as the case may be, as well for the arrears omitted of the year preceding only, if any, as for the tax of the current year; and the valuation of such land so entered shall be the average valuation of the three previous years, if assessed for the said three years, but if not so assessed, the Clerk shall require the Assessor or Assessors for the current year to value such lands; and it shall be the duty of the Assessor or Assessors to value such lands when required, and certify the valuation in writing to the Clerk: and the owners of such lands shall have the right to appeal to the Council at its next or some

Proceedings where any land is found not to have been assessed in any year.

How land to be valued.

Appeal from valuation.

subsequent meeting after the taxes thereon have been demanded, but within fourteen days after such demand, which demand shall be made before the tenth day of November; and the Council shall hear and determine such appeal on some day not later than the first day of December. 32 V. c. 36, s. 123; 40 V. c. 7, *Sched. A* (197).

Treasurer to  
correct errors.

**122.** The County Treasurer may correct any clerical error which he himself discovers, from time to time, or which may be certified to him by the Clerk of any Municipality. 32 V. c. 36, s. 124 (1).

As to pretend-  
ed receipts,  
etc.

**123.** If any person produces to the Treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a Collector, School Trustee, or other municipal officer, he shall not be bound to accept the same until he has received a report from the Clerk of the Municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. 32 V. c. 36, s. 124 (2).

Ten per cent.  
to be added to  
arrears yearly.

**124.** If, at the balance to be made on the first day of May in every year, it appears that there are any arrears due upon any parcel of land, the Treasurer shall add to the whole amount then due ten per centum thereon. 32 V. c. 36, s. 125.

When there is  
distress upon  
lands of non-  
residents,  
Treasurer may  
authorize col-  
lector to levy.

**125.** Wherever the County Treasurer is satisfied that there is distress upon any lands of non-residents in arrear for taxes in a Township or Village Municipality, he may issue a warrant under his hand and seal to the Collector of such Municipality, who shall thereby be authorized to levy the amount due, upon any goods and chattels found upon the land, in the same manner, and subject to the same provisions, as are contained in the sections ninety three to section ninety-nine inclusive of this Act, with respect to distresses made by Collectors. 32 V. c. 36, s. 126; 40 V. c. 7, *Sched. A*. (198).

From what  
period unpa-  
tented lands  
shall be liable  
to taxation.

**126.** Unpatented land vested in or held by Her Majesty which may be hereafter sold, or agreed to be sold, to any person, or which may be located as a free grant, shall be liable to taxation from the date of such sale or grant; and any such land which has been already sold, or agreed to be sold, to any person, or has been located as a free grant, prior to the first day of January, one thousand eight hundred and sixty-three, shall be held to have been liable to taxation since the first day of January, one thousand eight hundred and sixty-three; and all such lands shall be liable to taxation thenceforward under this Act, in the same way as other land, whether any license of occupation, location ticket, certificate of sale, or receipt for money paid on such sale, has or has not been, or is or is not issued, and, in case of sale, or agreement for sale by the Crown, whether any payment has or has not been, or is or is not made thereon, and whether any part of the purchase money is or is not over-



due and unpaid; but such taxation shall not in any way affect the rights of Her Majesty in such lands. 32 V. c. 36, s. 127. Rights of the Crown saved.

#### SALE OF LANDS FOR TAXES.

**127.** Wherever a portion of the tax on any land has been due for and in the third year, or for more than three years preceding the current year, the Treasurer of the County shall, unless otherwise directed by a by-law of the County Council, submit to the Warden of such County a list in duplicate of all the lands liable under the provisions of this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the Warden shall authenticate each of such lists by affixing thereto the seal of the Corporation and his signature, and one of such lists shall be deposited with the Clerk of the County, and the other shall be returned to the Treasurer, with a warrant thereto annexed, under the hand of the Warden and the seal of the County, commanding him to levy upon the land for the arrears due thereon, with his costs. 32 V. c. 36, s. 128. When lands to be sold for taxes. Arrears due for three years to be levied by warrant of Warden to Treasurer.

**128.** The Council of a County, City or Town shall have power from time to time to extend beyond the term of three years, the time for the enforced collection by sale of non-resident taxes by by-law passed for that purpose. 32 V. c. 36, s. 129; 40 V. c. 7, *Sched. A* (199). Council may extend time for payment.

**129.** It shall not be the duty of the Treasurer to make inquiry before effecting a sale of lands for taxes, to ascertain whether or not there is any distress upon the land; nor shall he be bound to inquire into or form any opinion of the value of the land. 32 V. c. 36, s. 130, *first part*. Treasurer's duty on receiving warrant to sell.

**130.** The Treasurer shall not sell any lands which have not been included in the lists furnished by him to the Clerks of the several Municipalities in the month of February preceding the sale, nor any of the lands which have been returned to him as being occupied under the provisions of the one hundred and eleventh section of this Act, except the lands, the arrears for which had been placed on the collection roll of the preceding year and again returned unpaid and still in arrear in consequence of insufficient distress being found on the lands. 32 V. c. 36, s. 131. What lands only the Treasurer shall sell.

**131.** The County Treasurer shall prepare a copy of the list of lands to be sold, required by section one hundred and twenty-seven of this Act, and shall include therein, in a separate column, a statement of the proportion of costs chargeable on each lot for advertising, and for the commissions authorized by this Act to be paid to him, distinguishing the lands as patented, unpatented, or under lease or license of occupation from the Crown, and shall cause such list to be published four weeks in the *Ontario Gazette*, and once a week, for thirteen weeks, in some newspaper published within the County, and, in the case of a

Union of Counties, in each County of the Union, if there be one published in each County, and if not, in such County or Counties of the Union in which a newspaper is published, or, if none be so published, in some other newspaper published in some adjoining County. 32 V. c. 36, s. 132; 33 V. c. 27, s. 11.

Proceedings  
when lands in  
arrear for  
taxes in Junior  
County separated from  
Union of Counties.

2. Where a Junior County is separated from a Union of Counties after a return is made to the Treasurer of the United Counties of lands in arrear for taxes, but such lands have not been advertised for sale by the Treasurer of the United Counties, or Senior County, such Treasurer shall return to the Treasurer of the Junior County a list of all the lands within the Junior County returned as in arrear for taxes, and not advertised; and the Treasurer and Warden of the Junior County shall have power respectively to take all the proceedings which Treasurers and Wardens, under this Act, can take for the sale and conveyance of lands in arrear for taxes; but, in case the lands in such Junior County have been advertised by the Treasurer of the United Counties before such separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place. 32 V. c. 36, s. 132 (2).

Notice to be  
given in such  
advertisement.

**132.** The advertisement shall contain a notification, that unless the arrears and costs are sooner paid, the Treasurer will proceed to sell the lands for the taxes, on a day and at a place named in the advertisement. 32 V. c. 36, s. 133.

Time of sale

**133.** The day of sale shall be more than ninety-one days after the first publication of the list. 32 V. c. 36, s. 134.

Notice to be  
posted up.

**134.** The Treasurer shall also post a notice similar to the said advertisement, in some convenient and public place at the Court-House of the County, at least three weeks before the time of sale. 32 V. c. 36, s. 135.

Expenses  
added to  
arrears.

**135.** The Treasurer shall, in each case, add to the arrears published his commission and the costs of publication. 32 V. c. 36, s. 136.

Adjourning  
sale, if no  
bidders.

**136.** If, at any time appointed for the sale of the lands, no bidders appear, the Treasurer may adjourn the sale from time to time. 32 V. c. 36, s. 137.

Mode in which  
the lands shall  
be sold by the  
Treasurer.

**137.** If the taxes have not been previously collected, or if no person appears to pay the same at the time and place appointed for the sale, the Treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes and all lawful charges incurred in and about the sale and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first; and, in offering or selling such lands, it shall not be necessary to describe particularly the portion of the lot which is to be sold, but it shall be sufficient to

say that he will sell so much of the lot as may be necessary to secure the payment of the taxes due; and the amount of taxes stated in the Treasurer's advertisement shall, in all cases, be held to be the correct amount due. 32 V. c. 36, s. 138 (1); 40 V. c. 7, *Sched. A.* (200).

2. If the Treasurer fails at such sale to sell any land for the full amount of arrears of taxes due, he shall at such sale adjourn the same until a day then to be publicly named by him, not earlier than one week, nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless otherwise directed by the local Municipality in which they are situate, for any sum he can realize, and shall accept such sum as full payment of such arrears of taxes; but the owner of any land so sold shall not be at liberty to redeem the same, except upon payment to the County Treasurer of the full amount of taxes due, together with the expenses of sale; and the Treasurer shall account to the local Municipality for the full amount of taxes paid. 33 V. c. 27, s. 8.

When land does not sell for full amount of taxes.

**138.** If the Treasurer sells any interest in land of which the fee is in the Crown, he shall only sell the interest therein of the lessee, licensee or locatee, and it shall be so distinctly expressed in the conveyance to be made by the Treasurer and Warden, and such conveyance shall give the purchaser the same rights in respect of the land as the original lessee, licensee or locatee enjoyed, and shall be valid, without requiring the assent of the Commissioner of Crown Lands. 32 V. c. 36, s. 139.

When Treasurer sells land the fee of which is in Crown, he shall only sell the interest of lessee, etc.

**139.** If the purchaser of any parcel of land fails immediately to pay to the Treasurer the amount of the purchase money, the Treasurer shall forthwith again put up the property for sale. 32 V. c. 36, s. 140.

When purchaser fails to pay purchase money.

#### *Certificate of Sale—Tax Deed.*

**140.** The Treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been so sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has been sold, and the expenses of sale, and further stating that a deed conveying the same to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to the one hundred and thirty-seventh and one hundred and thirty-eighth sections of this Act, will be executed by the Treasurer and Warden on his or their demand, at any time after the expiration of one year from the date of the certificate, if the land is not previously redeemed. 32 V. c. 36, s. 141.

Treasurer selling to give purchaser a certificate of land sold.



Purchaser of lands sold for taxes to be deemed owner thereof, for certain purposes, on receipt of Treasurer's certificate.

**141.** The purchaser shall, on the receipt of the Treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.

Proviso.

2. The purchaser shall not be liable for damage done without his knowledge to the property during the time the certificate is in force. 32 V. c. 36, s. 142.

Effect of tender of arrears etc.

**142.** From the time of a tender to the Treasurer of the full amount of redemption money required by this Act, the said purchaser shall cease to have any further right in or to the land in question. 32 V. c. 36, s. 143.

Treasurer's commission.

**143.** Every Treasurer shall be entitled to two and one-half per centum commission upon the sums collected by him as aforesaid. 32 V. c. 36, s. 144.

Fees, etc., on sales of land.

**144.** Wherever land is sold by a Treasurer, according to the provisions of the one hundred and thirty-first and following sections of this Act, he may add the commission and costs which he is hereby authorized to charge for the services above mentioned, to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale, of the arrears and costs incurred. 32 V. c. 36, s. 145.

Expenses of search in Registry Office for description, etc.

**145.** The Treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the part sold with sufficient certainty, and if less than a whole lot, then by such a general description as may enable a Surveyor to lay off the piece sold on the ground; and he may make search, if necessary, in the Registry Office, to ascertain the description and boundaries of the whole parcel, and he may also obtain a Surveyor's description of such lots, to be taken from the Registry Office or the Government maps, where a full description cannot otherwise be obtained, such Surveyor's fee not to exceed one dollar; and the charge so incurred shall be included in the account and paid by the purchaser of the land sold, or the party redeeming the same. 32 V. c. 36, s. 146.

Treasurer entitled to no other fees.

**146.** Except as before provided, the Treasurer shall not be entitled to any other fees or emoluments whatever for any services rendered by him relating to the collection of arrears of taxes on lands. 32 V. c. 36, s. 147.

Owners may, within one year, redeem

**147.** The owner of any land which may hereafter be sold for non-payment of arrears of taxes, or his heirs, executors, admin-

istrators or assigns, or any other person, may, at any time within one year from the day of sale, exclusive of that day, redeem the estate sold by paying or tendering to the County Treasurer, for the use and benefit of the purchaser or his legal representatives, the sum paid by him, together with ten per centum thereon; and the Treasurer shall give to the party paying such redemption money, a receipt stating the sum paid and the object of payment; and such receipt shall be evidence of the redemption. 32 V. c. 36, s. 148.

estate sold by  
paying pur-  
chase money  
and 10 per  
cent. thereon.

**148.** If the land is not redeemed within the period so allowed for its redemption, being one year exclusive of the day of sale as aforesaid, then, on the demand of the purchaser, or his assigns, or other legal representative, at any time afterwards, and on payment of one dollar, the Treasurer shall prepare and execute with the Warden, and deliver to him or them, a deed in duplicate of the land sold, in which deed any number of lots may be included at the request of the purchaser or any assignee of the purchaser. 32 V. c. 36, s. 149.

Deed of sale,  
if not redeem-  
ed.

**149.** The words "Treasurer" and "Warden" in the foregoing section shall mean the persons who at the time of the execution of the deed in such section mentioned hold the said offices. 37 V. c. 19, s. 7.

Meaning of  
words Treas-  
urer and  
Warden.

**150.** The deed shall be in the form or to the same effect as in Schedule K to this Act, and shall state the date and cause of the sale, and the price, and shall describe the land according to the provisions of section one hundred and forty five of this Act, and shall have the effect of vesting the land in the purchaser or his heirs and assigns or other legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold; and no such deed shall be invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as "patented" or "unpatented" or "held under a license of occupation." 32 V. c. 36, s. 150; 34 V. c. 28, s. 4.

Contents of  
deed and ef-  
fect thereof.

**151.** The deed shall be registered in the Registry Office of the Registration Division in which the lands are situate, within eighteen months after the sale, otherwise the parties claiming under such sale shall not be deemed to have preserved their priority as against a purchaser in good faith who has registered his deed prior to the registration of the deed from the Warden and Treasurer. 31 V. c. 20, s. 58. *See also Rev. Stat. c. 111, s. 76.*

Deed to be  
registered  
within eight-  
een months  
to obtain pri-  
ority.

2. The Registrar or Deputy Registrar upon production of the duplicate deed, shall enter the same in the Registry book, and give a certificate of such entry and registration in accordance with "*The Registry Act.*" 32 V. c. 36, s. 151.

Registration  
of deeds.

Rev. Stat. c.  
111.

On what certificate Registrars to register Sheriff's deeds of lands sold for taxes before 1851.

**152.** As respects land sold for taxes before the first day of January, one thousand eight hundred and fifty-one, on the receipt by the Registrar of the proper County or place, of a certificate of the sale to the purchaser under the hand and seal of office of the Sheriff, stating the name of the purchaser, the sum paid, the number of acres and the estate or interest sold, the lot or tract of which the same forms part, and the date of the Sheriff's conveyance to the purchaser, his heirs, executors, administrators or assigns, and on production of the conveyance from the Sheriff to the purchaser, his heirs, executors, administrators or assigns, such Registrar shall register any Sheriff's deed of land sold for taxes before the first day of January, one thousand eight hundred and fifty-one; and the mode of such registry shall be the entering on record a transcript of such deed of conveyance. 32 V. c. 36, s. 152.

Sheriff to give certificate of execution of conveyances since January 1st, 1851, and before 1st January, 1866, for registration.

**153.** As respects land sold for taxes since the first day of January, one thousand eight hundred and fifty-one, and prior to the first of January, one thousand eight hundred and sixty-six, the Sheriff shall also give the purchaser or his assigns, or other legal representatives, a certificate under his hand and seal of office of the execution of the deed, containing the particulars in the last section mentioned; and such certificate, for the purpose of registration in the Registry Office of the proper Registration Division of any deed of lands so sold for taxes shall be deemed a memorial thereof; and the deed shall be registered; and a certificate of the registry thereof shall be granted by the Registrar on production to him of the deed and certificate, without further proof; and the Registrar shall, for the registry and certificate thereof, be entitled to seventy cents and no more. 32 V. c. 36, s. 153.

Treasurer to enter in a book descriptions of lands conveyed to purchaser by him.

**154.** The Treasurer shall enter in a book, which the County Council shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall, together with all copies of Collectors' rolls and other documents relating to non-resident lands, be by him kept among the records of the County. 32 V. c. 36, s. 154.

Deed to be binding on all, if land not redeemed in one year.

32 V. c. 36  
(O).

**155.** If any tax in respect of any lands sold by the Treasurer, in pursuance of and under the authority of "*The Assessment Act of 1869*" or of this Act, has been due for the third year or more years preceding the sale thereof, and the same is not redeemed in one year after the said sale, such sale and the official deed to the purchaser of any such lands (provided the sale be openly and fairly conducted) shall be final and binding upon the former owners of the said lands, and upon all persons claiming by, through or under them—it being intended by this Act that all owners of land shall be required to pay the arrears of taxes due thereon within the period of three years, or redeem



the same within one year after the Treasurer's sale thereof. 32 V. c. 36, s. 130. *See ss. 140, 147, 148.*

**156.** Wherever lands are sold for arrears of taxes, and the Treasurer has given a deed for the same, such deed shall be to all intents and purposes valid and binding, except as against the Crown, if the same has not been questioned before some Court of competent jurisdiction by some person interested in the land so sold within two years from the time of sale. 32 V. c. 36, s. 155.

Deed valid against all parties, if not questioned within a certain time.

**157.** In all cases where lands have been validly sold for taxes the conveyance by the Treasurer who made the sale, or his successors in office, shall not be invalid by reason of the statute under the authority whereof such sale was made having been repealed at and before the time of such conveyance, or by reason of the Treasurer who made the sale having gone out of office. 33 V. c. 23, s. 5.

Certain Treasurer's deeds not to be invalid, if the sale is valid.

**158.** In all cases where lands are sold for arrears of taxes, whether such sale is or is not valid, then so far as regards rights of entry adverse to any *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, the fifth section of *The Act respecting the Transfer of Real Property* shall not apply, to the end and intent that in such cases the right or title of persons claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and the second, fourth and sixth sections of the statute passed in the thirty-second year of the reign of King Henry the Eighth, and chaptered nine, be revived, and the same are and shall continue to be revived. 33 V. c. 23, s. 6.

Rights of entry adverse to tax-purchaser in possession not to be conveyed.

Rev. Stat. c. 98, s. 5.

Common Law and 32 H. viii. c. 9, ss. 2, 4 & 6, revived.

**159.** In all cases, (not being within any of the exceptions and provisions of sub-section three to this section), where lands having been legally liable to be assessed for taxes, are sold as for arrears of taxes, and such sale or the conveyance consequent thereon is invalid by reason of uncertain or insufficient designation or description of the lands assessed, sold or conveyed, and the right or title of the tax purchaser is not valid, and the tax purchaser has entered on the lands so liable to assessment or any part thereof, and has improved the same, then in case an action of ejectment is brought against such tax purchaser and he is liable to be ejected by reason of the invalidity of such sale or conveyance, the Judge of Assize before whom such action is tried shall direct the jury to assess, or shall himself (if the case be tried without a jury), assess damages for the defendant for the amount of the purchase money at such sale and interest thereon, and of all taxes paid in respect of the lands since the sale by the tax purchaser and interest thereon, and of any loss to be sustained in consequence of any improvements made before the commencement of such action by the defendant, and all persons through or under whom he claims, less all just allowances for the net

Where sale or conveyance void for uncertainty, and purchaser has improved, the value of the land and improvements, &c., to be assessed, and

value of any timber sold off the lands, and all other just allowances to the plaintiff, and shall assess the value of the land to be recovered.

The plaintiff to pay for improvements, &c., unless tax purchaser elects to retain the land on paying its value.

2. If a verdict is found for the plaintiff, no writ of possession shall issue until the plaintiff has paid into Court for the defendant the amount of such damages: or, if the defendant desires to retain the land, he may retain it, on paying into Court, on or before the fourth day of the ensuing Term, or on or before any subsequent day to be appointed by the Court, the value of the land as assessed at the trial; after which payment, no writ of possession shall issue, but the plaintiff on filing in Court for the defendant a sufficient release and conveyance to the defendant, of his right and title to the land in question, shall be entitled to the money so paid in. 33 V. c. 23, s. 9.

Section not to apply

3. This section shall not apply in the following cases:—

if taxes paid before sale;

(a.) If the taxes for non-payment whereof the lands were sold have been fully paid before the sale.

if land were redeemed;

(b.) If, within the period limited by law for redemption, the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the person entitled to receive such payment, with a view to redemption of the lands.

in cases of fraud.

(c.) Where on the ground of fraud or evil practice by the purchaser at any such sale, a Court would grant equitable relief. 33 V. c. 23, ss. 9 & 1.

When the owner is not tenant in fee, the value of the land to be paid into Chancery.

**160.** In any of the cases named in the one hundred and fifty-ninth section wherein the plaintiff is not tenant in fee simple or fee tail, the payment into Court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the Court of Chancery, and the plaintiff and all parties entitled to and interested in the said lands, as against the purchase at such sale for taxes, on filing in the Court of Chancery a sufficient release and conveyance to the defendant of their respective rights and interests to the land, shall be entitled to the money so paid in in such proportions and shares as to the Court of Chancery, regarding the interests of the various parties, seems proper.

When the defendant is not tenant in fee, the value of improvements, &c., to be paid into Chancery.

2. In any of such cases wherein the defendant is not tenant in fee simple or fee tail, then the payment of damages into Court to be made as aforesaid by the plaintiff, shall be into the Court of Chancery. 33 V. c. 23, s. 10.

Any other person interested may pay in value assessed if defendant does not.

**161.** If the defendant does not pay into the Court wherein such action is brought, the value of the land assessed as aforesaid, on or before the fourth day of the said Term, or on or before such subsequent day as may be appointed by the Court, then any other person interested in the lands under the sale or convey-

ance for taxes may, before the end of the said Term, or before the expiry of ninety days from any subsequent day to be appointed by the Court for payment by the defendant, pay into Court the said value of the lands; and till the expiration of the time within which such payment may be made, and after such payment no writ of possession shall issue.

2. The defendant, or other person so paying in shall be entitled as against all others interested in the lands under the sale or conveyance for taxes, to a lien on the lands for such amount as exceeds the proportionate value of his interest in the lands, enforceable in such manner and in such shares and proportions as to the Court of Chancery, regarding the interests of the various parties, and on hearing the parties, seems fit. 33 V. c. 23, s. 10.

The payer to have a lien for such proportion as exceeds his interest.

**162.** In case the defendant or any other person interested pays into Court in manner aforesaid, the plaintiff shall be entitled to the amount so paid in, on filing in Court a sufficient release and conveyance to the party so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such party, to secure his lien as aforesaid. 33 V. c. 23, s. 10.

How the owner can obtain the value of the land paid in.

**163.** If the said value of the lands is not paid into Court as above provided, then the amount of the damages paid into the Court of Chancery shall be paid out to the various persons, who, if the sale for taxes were valid would be entitled to the lands, in such shares and proportions as to the Court of Chancery, regarding the interests of the various parties, seems fit. 33 V. c. 23, s. 10.

How the value of improvements, etc., paid in can be obtained.

**164.** In all actions of ejectment in which both the plaintiff (if his title were good) would be entitled in fee simple or fee tail, and the defendant (if his title were good) would be also so entitled, if the defendant, at the time of appearing gave notice in writing to the plaintiff in such ejectment or to his attorney named on the writ, of the amount claimed, and that on payment of such amount, the defendant or person in possession would surrender the possession to the plaintiff; or that he desired to retain the land, and was ready and willing to pay into Court a sum mentioned in the said notice as the value of the land, and that the said defendant did not intend at the trial to contest the title of the plaintiff; and if the jury, or the Judge, if there be no jury, before whom such action of ejectment is tried, assess damages for the defendant as provided in the five next preceding sections, and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or obtain damages, the Judge before whom such action is tried, shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the plain-

Provision as to costs in cases where value of the land and improvements, etc., only in question.



tiff had been nonsuited on the trial, or a verdict had been rendered for the defendant.

2. If on the trial it is found that such notice was not given as aforesaid, or if the Judge or jury assess for the defendant a less amount than that claimed in the notice, or find that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the said land), that the value of the land is greater than the amount mentioned in the said notice, or that he has omitted to pay into Court the amount mentioned in the said notice for thirty days after the plaintiff had given to the defendant a written notice that he did not intend to contest the value of the land mentioned in such notice, then in any such case the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff; and upon the trial of any cause after such notice no evidence shall be required to be produced in proof of the title of the plaintiff. 33 V. c. 23, s. 11.

Tax-purchaser without a remedy whose title is invalid to have a lien on the land for purchase money, etc.

**165.** In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser shall have a lien on the lands for the purchase money paid at such sale, and interest thereon at the rate of ten per centum per annum, and for the amount of all taxes paid by him or them since such sale and interest thereon at the rate aforesaid, to be enforced against the lands in such proportions as regards the various owners, and in such manner as the Court of Chancery thinks proper. 33 V. c. 23, s. 13.

Contracts between tax purchaser and original owner continued.

**166.** No valid contract entered into between any tax purchaser and original owner, in regard to any lands sold or assumed to have been sold for arrears of taxes, as to purchase, lease, or otherwise, shall be annulled or interfered with by this Act, but such contract shall remain in force, and all consequences thereof, at Law or in Equity, as to admission of title or otherwise, as if this Act had not been passed. 33 V. c. 23, s. 12.

Secs. 157-166 not to apply where the owner has occupied since sale.

**167.** Nothing in the ten next preceding sections of this Act contained shall affect the right or title of the owner of any lands sold as for arrears of taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupation of the land, and the same have since the sale been in the occupation of such owner, or of those claiming through or under him. 33 V. c. 23, s. 7.

Other Acts remedial to purchasers continued.

**168.** Nothing in the eleven next preceding sections of this Act contained shall prejudice the right or title which any purchaser at any sale for taxes, or any one claiming through or under him, has heretofore acquired or hereafter acquires under any other statute. 33 V. c. 23, s. 8.

**169.** In the construction of the twelve next preceeding sections of this Act, occupation by a tenant shall be deemed the occupation of the reversioner; and the word, "tax purchaser" shall apply to any person who purchases at any sale under colour of any statute authorizing sales of lands for taxes in arrear, and shall include and extend to all persons claiming through or under him; and the words "original owner" shall include and extend to any person who, at the time of such sale, was legally interested in or entitled to the land sold, or assumed to be sold, and all persons claiming through or under him. 33 V. c. 23, s. 14.

Construction of "Tax purchaser," "Original owner."

#### NON-RESIDENT LAND FUND.

**170.** The Council may, by by-law, direct that all the moneys received by the County Treasurer on account of taxes on non-resident lands, shall be paid at stated periods to the several local Municipalities to which such taxes were due, or shall constitute a distinct and separate fund to be called the "Non-resident Land Fund" of the County. 32 V. c. 36, s. 156.

The Non-resident Land Fund.

2. In the absenee of any such by-law, the County Treasurer shall pay over to the local Treasurer all such moneys when so collected. 33 V. c. 27, s. 10.

If no such Fund.

**171.** The Treasurer shall, when such fund has been created, open an account for each local Municipality with the said fund. 32 V. c. 36, s. 157.

Treasurer to open an account therefor.

**172.** If two or more local Municipalities, having been united for municipal purposes, are afterwards disunited, or if a Municipality or part of a Municipality is afterwards added to or detached from any County, or to or from any other Municipality, the Treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the Municipality within which the land after such alteration is situate, and, if a Union of Counties is about to be dissolved, all the taxes on non-residents' land imposed by by-laws of the Provisional Council of the Junior County, shall be returned to and collected by the Treasurer of the United Counties, and not by the Provisional Treasurer; and the Treasurer of the United Counties shall open an account forthwith for the Junior County with the Non-resident Land Fund. 32 V. c. 36, s. 158.

Municipalities united and afterwards dis-united, etc.

When any union about to be dissolved.

**173.** In cases where a new Municipality is formed partly, from two or more Municipalities situate in different Counties, the collection of non-resident taxes due at the time of formation shall remain in the hands of the Treasurers of the respective Counties formerly having jurisdiction over the respective portions of territory forming the new Municipality

New municipalities partly in one county and partly in another.

and the respective Treasurers shall keep separate accounts of such moneys and pay the same to the new Municipality; and where a new Municipality is formed from two or more Municipalities situate in any one County, the Treasurer shall, in like manner, keep a separate account for such new Municipality. 32 V. c. 36, s. 159.

All arrears to form one charge upon lands subject to them, &c.

**174.** The Treasurer of the County shall not be required to keep a separate account of the several distinct rates which may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. 32 V. c. 36, s. 160.

Deficiencies in certain taxes to be supplied by municipality.

**175.** Every local Municipal Council, in paying over any school or local rate, or its share of any County rate, or of any other tax or rate lawfully imposed for Provincial or local purposes, shall supply, out of the funds of the Municipality, any deficiency arising from the non-payment of the taxes, but shall not be held answerable for any deficiency arising from the abatements of, or inability to collect, the tax on personal property other than for County rates. 32 V. c. 36, s. 161: 40 V. c. 7, *Sched. A.* (201).

Money from Non-resident Land Fund, how appropriated.

**176.** All sums which may at any time be paid to a Municipality out of the Non-resident Land Fund of the County, shall form part of the general funds of such Municipality. 32 V. c. 36, s. 162.

Debentures may be issued on the credit of Non-resident Land Fund.

**177.** The Council of the County may, from time to time, by by-law, authorize the Warden to issue, under the corporate seal, upon the credit of the Non-resident Land Fund, debentures payable not later than eight years after the date thereof and for sums not less than one hundred dollars each, so that the whole of the debentures at any time issued and unpaid do not exceed two-thirds of all arrears then due and accruing upon the lands in the County, together with such other sums as may be in the Treasurer's hands, or otherwise invested to the credit of the said fund; and all debentures issued by the County shall be in the exclusive custody of the Treasurer, who shall be responsible for their safety until their proceeds are deposited with him. 32 V. c. 36, s. 163.

Who to have charge of them.

By whom to be negotiated.

**178.** Such debentures shall be negotiated by the Warden and Treasurer of the County, and the proceeds shall be paid into the said Fund, and the interest on the said debentures, and the principal when due, shall be payable out of such Fund: but the purchaser of any such debentures shall not be bound to see to the application of the purchase money, or be held responsible for the non-application thereof. 32 V. c. 36, s. 164.

Proviso.

Provision for payment of

**179.** If at any time there is not in the Non-resident Land Fund, where such Fund has been created, money sufficient



to pay the interest upon a debenture or to redeem the same when due, such interest or debenture shall be payable out of the general County funds, and the payment thereof may be enforced in the same manner as is by law provided in the case of other County debentures. 32 V. c. 36, s. 165.

**180.** The Council of the County may from time to time pass by-laws apportioning the surplus moneys in the Non-resident Land Fund amongst the Municipalities rateably, according to the moneys received and arrears due on account of the non-resident lands in each Municipality; but such apportionment shall always be so limited that the debentures unpaid shall never exceed two-thirds of the whole amount to the credit of the Fund. 32 V. c. 36, s. 166.

Surplus of the Non-resident Land Fund to be divided among municipalities.

**181.** The Treasurer shall not be entitled to receive from the person paying taxes any percentage thereon, but may receive from the Fund such percentage upon all moneys in his hands, or such fixed salary in lieu thereof as the County Council by by-law may direct. 32 V. c. 36, s. 167.

Treasurer's percentage salary, how paid.

**182.** The County Treasurer shall prepare and submit to the County Council, at its first session in January in each year, a report, certified by the Auditors, of the state of the Non-resident Land Fund. 32 V. c. 36, s. 168.

Annual statements of fund to be submitted to councils.

**183.** The said report shall contain an account of all the moneys received and expended during the year ending on the thirty-first of December next preceding, distinguishing the sums received on account of, and paid to, the several Municipalities, and received and paid on account of interest or debentures negotiated or redeemed, and the sums invested and the balance in hand; a list of all debentures then unpaid, with the dates at which they will become due; and a statement of all the arrears then due, distinguishing those due in every Municipality; and the amount due on lands then advertised for sale, or which by law may be advertised, during the ensuing year. 32 V. c. 36, s. 169.

What it shall show.

**184.** The Warden shall cause a copy of the report to be transmitted to the Provincial Secretary for the information of the Lieutenant-Governor. 32 V. c. 36, s. 170.

Copy to be transmitted to Provincial Secretary.

#### ARREARS OF TAXES IN CITIES AND TOWNS.

**185.** In Cities and Towns arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other Municipalities; and for such purposes the municipal officers of Cities and Towns shall perform the same duties as the like officers in other Municipalities; and the Treasurer and Mayor of every City or Town shall, for such

Collection of arrears of taxes in cities and towns.

purposes, also perform the like duties as are hereinbefore, in the case of other Municipalities, imposed on the County Treasurer and Warden respectively. 32 V. c. 36, s. 171 & 111, *last part*. See *ante* s. 109.

County treasurers, etc., to keep triplicate blank receipt books.

**186.** The Treasurer of every County, City and Town shall keep a triplicate blank receipt book, and on receipt of any sum of money for taxes on land, shall deliver to the party making payment one of such receipts, and shall deliver to the County, City or Town Clerk the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the Clerk at least every three months; and the County, City or Town Clerk shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the party making payment; the lot on which payment is made; the amount paid; the date of payment, and the number of the receipt; and the Auditors shall examine and audit such books and accounts at least once in every twelve months. 32 V. c. 36, s. 172.

Audit of books, etc.

#### RESPONSIBILITY OF OFFICERS.

Security by treasurers and collectors.

**187.** Every Treasurer and Collector, before entering on the duties of his office, shall enter into a bond to the Corporation of the Municipality for the faithful performance of his duties. 32 V. c. 36, s. 173.

Bond with sureties.

**188.** Such bond shall be given by the officer and two or more sufficient sureties, in such sum and such manner as the Council of the Municipality by any by-law in that behalf requires, and shall conform to all the provisions of such by-law. 32 V. c. 36, s. 174.

Penalty on assessors or clerks failing to perform their duty, and how enforced.

**189.** If any Treasurer, Assessor, Clerk or other officer refuses or neglects to perform any duty required of him by this Act, he shall, upon conviction thereof before any Court of competent jurisdiction in the County in which he is Treasurer, Assessor, Clerk or other officer, forfeit to Her Majesty such sum as the Court may order and adjudge, not exceeding one hundred dollars. 32 V. c. 36, s. 175.

Other assessors may act for those in default.

**190.** If an Assessor neglects or omits to perform his duties, the other Assessor, or other Assessors (if there be more than one for the same locality), or one of such Assessors, shall, until a new appointment, perform the duties, and shall certify upon his or their assessment roll the name of the delinquent Assessor, and also, if he or they know it, the cause of the delinquency: and any Council may, after an Assessor neglects or omits to perform his duties, appoint some other person to discharge such duties: and the Assessor so appointed shall have all the powers and be entitled to all the emoluments which appertain to the office. 32 V. c. 36, s. 176.

**191.** If any Clerk, Treasurer, Assessor or Collector, acting under this Act, makes any unjust or fraudulent assessment or collection, or copy of any Assessor's or Collector's roll, or wilfully and fraudulently inserts therein the name of any person who should not be entered, or fraudulently omits the name of any person who should be entered, or wilfully omits any duty required of him by this Act, he shall, upon conviction thereof before a Court of competent jurisdiction, be liable to a fine not exceeding two hundred dollars, and to imprisonment until the fine is paid, in the Common Gaol of the County or City for a period not exceeding six months, or to both such fine and imprisonment, in the discretion of the Court. 32 V. c. 36, s. 177.

Punishment of Clerks, Assessors, etc., making fraudulent assessments, etc.

**192.** Proof, to the satisfaction of the jury, that any real property was assessed by the Assessor at an actual value greater or less than its true actual value by thirty per centum thereof, shall be *prima facie* evidence that the assessment was unjust or fraudulent. 32 V. c. 36, s. 178.

What shall be evidence of fraudulent assessments.

**193.** An Assessor convicted of having made any unjust or fraudulent assessment, shall be sentenced to the greatest punishment, both by fine and imprisonment, allowed by this Act. 32 V. c. 36, s. 179.

Punishment of culpable assessors.

**194.** With reference to "*The Jurors' Act*," if any Assessor of any Township, Village or Ward, except in the cases provided for by sections forty-four and forty-six of this Act, neglects or omits to make out and complete his assessment roll for the Township, Village or Ward, and to return the same to the Clerk of such Township or Village, or of the City or Town in which such Ward is situated, or to the proper officer or place of deposit of such roll, on or before the first day of September of the year for which he is Assessor, every such Assessor so offending shall forfeit for every such offence the sum of two hundred dollars, one moiety thereof to the use of the Municipality, and the other moiety, with costs, to such person as may sue for the same in any Court of competent jurisdiction by action of debt or information; but nothing herein contained shall be constructed to relieve any Assessor from the obligation of returning his assessment roll, at the period required elsewhere by this Act, and from the penalties incurred by him by not returning the same accordingly. 32 V. c. 36, s. 180. See also *Rev. Stat. c. 48, s. 169 (3).*

Penalty for not making and completing assessment rolls by the proper time.

Rev. Stat. c. 48.

Not to impair any other liability.

**195.** If a Collector refuses or neglects to pay to the proper Treasurer, or other person legally authorized to receive the same, the sums contained in his roll, or duly to account for the same as uncollected, the Treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant, under his hand and seal, directed to the Sheriff of the County or City (as the case may be), commanding him to levy of the goods, chattels, lands and tenements of the Collector

Proceedings for compelling collectors to pay over moneys collected to the proper treasurer.



and his sureties, such sum as remains unpaid and unaccounted for, with costs, and to pay to the Treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. 32 V. c. 36, s. 181.

Warrant to be delivered to Sheriff, etc.

**196.** The said Treasurer shall immediately deliver the said warrant to the Sheriff of the County, as the case may require. 32 V. c. 36, s. 182.

Sheriff, etc., to execute it, and pay money levied.

**197.** The Sheriff to whom the warrant is directed shall within forty days, cause the same to be executed and make return thereof to the Treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of Courts of Record. 32 V. c. 36, s. 183.

Mode of compelling Sheriff, etc., to pay over.

**198.** If a Sheriff refuses or neglects to levy any money when so commanded, or to pay over the same, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the Treasurer may, upon affidavit of the facts, apply in a summary manner to either of the Superior Courts of Law in Term time, or to any Judge of either Court in Vacation, for a rule or summons calling on the Sheriff to answer the matter of the affidavit. 32 V. c. 36, s. 184.

When returnable.

**199.** The said rule or summons shall be returnable at such time as the Court or Judge directs. 32 V. c. 36, s. 185.

Hearing on return.

**200.** Upon the return of such rule or summons, the Court or a Judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matters of the application. 32 V. c. 36, s. 186.

*Fi. Fa.* to the coroner to levy the money.

**201.** If the Court or Judge is of opinion that the Sheriff has been guilty of the dereliction alleged against him, such Court or Judge shall order the proper officer of the Court to issue a writ of *fieri facias*, adapted to the case, directed to a Coroner of the County in which the Municipality is situate, or to a Coroner of the City or Town (as the case may be) for which the Collector is in default. 32 V. c. 36, s. 187.

Tenor of such writ.

**202.** Such writ shall direct the Coroner to levy of the goods and chattels of the Sheriff the sum which the Sheriff was ordered to levy by the warrant of the Treasurer, together with the costs of the application and of such writ and of its execution; and the writ shall bear date on the day of its issue, whether in Term or Vacation, and shall be returnable forthwith upon its being executed; and the Coroner, upon executing the same, shall be entitled to the same fees as upon a writ grounded upon a judgment of the Court. 32 V. c. 36, s. 188.

Execution thereof.

Fees.

Penalty on Sheriff if no other imposed.

**203.** If a Sheriff wilfully omits to perform any duty required of him by this Act, and no other penalty is hereby imposed for

the omission, he shall be liable to a penalty of two hundred dollars, to be recovered from him in any Court of competent jurisdiction at the suit of the Treasurer of the County, City or Town. 32 V. c. 36, s. 189.

**204.** All money assessed, levied and collected for the purpose of being paid to the Treasurer of the Province, or to any other public officer, for the public uses of the Province, or for any special purpose or use mentioned in the Act under which the same is raised, shall be assessed, levied and collected by, and accounted for and paid over, to the same persons, in the same manner, and at the same time, as taxes imposed on the same property for County, City or Town purposes, and shall, in Law and Equity, be deemed and taken to be moneys collected for the County, City or Town, so far as to charge every Collector, or Treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of moneys assessed, levied and collected for the use of the County, City or Town, 32 V. c. 36, s. 190.

Payment of money collected for the Province.

**205.** All moneys collected for County purposes, or for any of the purposes mentioned in the preceding section, shall be payable by the Collector to the Township, Town or Village Treasurer, and by him to the County Treasurer; and the Corporation of the Township, Town or Village shall be responsible therefor to the Corporation of the County. 32 V. c. 36, s. 191.

How money collected for county purposes to be paid over.

**206.** Any bond or security given by the Collector or Treasurer to the Corporation of the Township, Town or Village, that he will account for and pay over all moneys collected or received by him, shall apply to all moneys collected or received for County purposes, or for any of the purposes mentioned in the two hundred and fourth section. 32 V. c. 36, s. 192.

Collectors or treasurers bound to account for all moneys collected by them.

**207.** The Treasurer of every Township, Town or Village shall, within fourteen days after the time appointed for the final settlement of the Collector's rolls, pay over to the Treasurer of the County all moneys which were assessed and by law required to be levied and collected in the Municipality for County purposes, or for any of the purposes mentioned in the two hundred and fourth section of this Act. 32 V. c. 36, s. 193.

Local treasurer to pay over county moneys to county treasurers.

**208.** If default be made in such payment, the County Treasurer may retain or stop a like amount out of any moneys which would otherwise be payable by him to the Municipality, or may recover the same by a suit or action for debt against such Municipality, or wherever the same has been in arrear for the space of three months, he may, by warrant under his hand and seal, reciting the facts, direct the Sheriff of the County to levy and collect the amount so due with interest and costs from the Municipality in default. 32 V. c. 36, s. 194.

Mode of enforcing such payment.

Warrant to sheriff.

How the  
sheriff to levy.

**209.** The Sheriff, upon receipt of the warrant, shall levy and collect the amount with his own fees and costs as if the warrant had been a writ of execution issued by a Court of Law, and he shall levy the amount of costs and fees in the same manner as is provided by "*The Municipal Act*" in case of writs of execution. 32 V. c. 36, s. 195.

Rev. Stat. c.  
174, ss. 408 &  
409.

Treasurer,  
etc., to account  
for and pay  
over Crown  
moneys.

**210.** The County, City or Town Treasurer shall be accountable and responsible to the Crown for all moneys collected for any of the purposes mentioned in the two hundred and fourth section of this Act, and shall pay over such moneys to the Treasurer of the Province. 32 V. c. 36, s. 196.

Municipality  
responsible  
for such  
moneys.

**211.** Every County, City and Town shall be responsible to Her Majesty, and to all other parties interested, that all moneys coming into the hands of the Treasurer of the County, City or Town, in virtue of his office, shall be by him duly paid over and accounted for according to law. 32 V. c. 36, s. 197.

Treasurer,  
etc., respon-  
sible to  
County, etc.

**212.** The Treasurer and his sureties shall be responsible and accountable for such moneys in like manner to the County, City or Town; and any bond or security given by them for the duly accounting for and paying over moneys coming into his hands belonging to the County, City or Town, shall be taken to apply to all such moneys as are mentioned in the two hundred and fourth section, and may be enforced against the Treasurer or his sureties, in case of default on his part. 32 V. c. 36, s. 198.

Bonds to  
apply.

Bonds to  
apply to  
school  
moneys, etc.

**213.** The bond of the Treasurer and his sureties shall apply to school moneys, and all public moneys of the Province; and, in case of any default, Her Majesty may enforce the responsibility of the County, City or Town, by stopping a like amount out of any public money which would otherwise be payable to the County, City or Town or to the Treasurer thereof, or by suit or action against the Corporation. 32 V. c. 36, s. 199.

City, etc., re-  
sponsible for  
default of  
Treasurer,  
etc.

**214.** Any person aggrieved by the default of the Treasurer, may recover from the Corporation of the County, City or Town, the amount due or payable to such person as money had and received to his use. 32 V. c. 36, s. 200.

#### MISCELLANEOUS.

Penalty for  
tearing down  
notices, etc.

**215.** If any person wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, he shall, on conviction thereof in a summary way before any Justice of the Peace having jurisdiction in the County, City or Town, be liable to a fine of twenty dollars, and, in default of payment, or for want of



sufficient distress, to imprisonment not exceeding twenty days.  
32 V. c. 36, s. 201.

**216.** The fines and forfeitures authorized to be summarily imposed by this Act, shall, when not otherwise provided, be levied and collected by distress and sale of the offender's goods and chattels, under authority of a warrant of distress to be issued by a Justice of the Peace of the County, City or Town ; and, in default of sufficient distress, the offender shall be committed to the Common Gaol of the County, and be there kept at hard labour for a period not exceeding one month. 32 V. c. 36, s. 202.

Recovery of  
fines and for-  
feitures here-  
by imposed.

**217.** When not otherwise provided all penalties recovered under this Act shall be paid to the Treasurer to the use of the Municipality. 32 V. c. 36, s. 203.

Application of  
penalties.

## SCHEDULE "A."

### (Section 3.)

#### FORM OF NOTICE BY NON-RESIDENT OWNER OF LAND REQUIRING TO BE ASSESSED THEREFOR.

To the Clerk of the Municipality of

Take notice, that I (*or we*) own the land hereunder mentioned, and require to be assessed, and have my name (*or our names*) entered on the Assessment Roll of the Municipality of (*or Ward of the Municipality of*) therefor.

That my (*or our*) full name (*or names*), place of residence and Post Office address, are as follows :—

A. B., of the Township of York, shoemaker, Weston Post Office (*as the case may be*). Description of land (*here give such description as will readily lead to the identification of the land*).

Dated the                      day of                      , 18 .

Witness, G. H.

C. D.

32 V. c. 36, Sched. A.

SCHEDULE "B.  
(Section 41.)  
(or CITY, TOWN OR VILLAGE) OF  
TOWNSHIP OF  
STREET, SIDE.

NAMES AND DESCRIPTION OF PERSONS ASSESSED.										DESCRIPTION AND VALUE OF REAL PROPERTY.										PERSONAL PROPERTY AND TAXABLE INCOME.				AGGREGATE VALUE OF ALL PROPERTY.	STATUTE LABOUR.		Dogs.		STATISTICS.							DATE OF DELIVERY OF NOTICE UNDER SECTION 41.																																																																																																																																																																																																																															
1										2										3										4										5										6										7										8										9										10										11										12										13										14										15										16										17										18										19										20										21										22										23										24										25										26									
Number on roll.										Name of occupant or other taxable party.										Occupation.										Freeholder, householder, tenant, or farmer's son.										Age of occupant.										Name and address of owner when person named in column two is not the owner.										Non-resident.																																																																																																																																																																																																							

Take notice that you are assessed as above specified, for the year 18 . . . . . If you deem yourself overcharged, or otherwise improperly assessed, you or your agent may notify the Clerk of the Municipality (or Assessment Commissioner) in writing of such overcharge or improper assessment, within fourteen days after the day of . . . . . (insert date on which the Assessment Roll was returned), and your complaint shall be tried by the Court of Revision for the Municipality of . . . . .

(ENDORSED.)

Sir,—Take notice that I intend to appeal against this assessment, for the following reasons:—

A. B.,  
Township Clerk  
or Assessment Commissioner,

I am Sir, your obedient servant,

37 V, c. 19, ss. 3 & 12; 40 V, c. 16, s. 13 (2).

## SCHEDULE "C."

(Section 56, sub-section 14.)

FORM OF DECLARATION BY PARTY COMPLAINING IN PERSON OF OVERCHARGE ON PERSONAL PROPERTY :

I, A. B. (*set out name in full, with place of residence, business, trade, profession, or calling*), do solemnly declare that the true value of all the personal property assessable against me (*or as the case may be*), as trustee, guardian or executor, etc., without deducting any debts due by me in respect thereof, is [In case debts are owed in respect of such property : *add*, that I am indebted on account of such personal property in the sum of ] ; and that the true amount for which I am liable to be rated and assessed in respect of personal property, other than income, is .

32 V. c. 36, Sched. D.

## SCHEDULE "D."

(Section 56, sub-section 14.)

FORM OF DECLARATION OF PARTY COMPLAINING IN PERSON OF OVERCHARGE ON ACCOUNT OF TAXABLE INCOME :

I, A. B. (*set out name in full, with place of residence, business, trade, profession or calling*), do solemnly declare that my gross income, derived from all sources not exempt by law from taxation, is .

32 V. c. 36, Sched. E.

## SCHEDULE "E."

(Section 56, sub-section 14.)

FORM OF DECLARATION BY PARTY COMPLAINING OF OVERCHARGE IN RESPECT OF PERSONAL PROPERTY AND TAXABLE INCOME :

I, A. B. (*set out name in full, with place of residence, business, trade, profession or calling*), do solemnly declare that the true value of personal property, other than income, is [if there are debts, *add* : that I am indebted on account of such personal property in the sum of ] ; that my gross income derived from all sources, not exempt by law from taxation, is ; and that the full amount for which I am by law justly assessable, in respect to both personal property and income, is .

32 V. c. 36, Sched. F.



## SCHEDULE "F."

(Section 56, sub-section 14.)

FORM OF DECLARATION BY AGENT OF A PARTY COMPLAINING OF OVER-CHARGE ON PERSONAL PROPERTY :

I, A. B. (*set out name in full, with place of residence, business, trade, profession or calling*), agent for C. D. (*set out name in full, with place of residence, and calling of person assessed*), do solemnly declare that the true value of all the personal property assessable against the said C. D. (*or, as the case may be*), as trustee, guardian or executor, etc., is  
 [In case there are debts in respect to the property add: The said C. D. is indebted on account of such personal property in the sum of ;]  
 and that the true amount for which the said C. D. is liable to be rated and assessed in respect of personal property, other than income, is ; and that I have the means of knowing, and do know, the extent and value of the said C. D.'s personal property and debts in respect thereof.

A. B.

32 V. c. 36, Sched. G.

## SCHEDULE "G."

(Section 56, sub-section 14.)

FORM OF DECLARATION BY AGENT OF PARTY COMPLAINING OF OVER-CHARGE ON TAXABLE INCOME :

I, A. B. (*set out name in full, with place of residence, business, trade, profession or calling*), agent for C. D. (*set out name in full, with place of residence, and calling of person assessed*), do solemnly declare that the gross income of the said C. D., derived from all sources not exempt from taxation by law, is ; and that I have the means of knowing, and do know, the income of the said C. D.

32 V. c. 36, Sched. H.

## SCHEDULE "H."

(Section 56, sub-section 14.)

FORM OF DECLARATION BY AGENT OF PARTY COMPLAINING OF AN OVER-CHARGE IN RESPECT OF PERSONAL PROPERTY AND TAXABLE INCOME :

I, A. B. (*set out name in full, with place of residence, business, trade, profession or calling*), agent for C. D. (*set out name in full, with place of residence, and calling of person assessed*), do solemnly declare that the true value of the personal property of the said C. D., other than income, is ; that the gross income of the said C. D., derived from all sources not exempt by law from taxation, is ;

and that the full amount for which the said C. D. is justly assessable, in respect of both personal property and income, is  
*[If there are debts on account of the property, add: That the said C. D. is indebted on account of such personal property in the sum of ;]*  
 and that I have the means of knowing, and do know, the truth of the matters hereinbefore declared.

32 V. c. 36, *Sched. I.*

## SCHEDULE "K."

(Section 150.)

### FORM OF TAX DEED.

*To all to whom these Presents shall come.*  
 We, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_, Esquire, Warden  
 (or, Mayor), and \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_, Esquire,  
 Treasurer of the County (or City or Town) of \_\_\_\_\_, Send  
 Greeting:—

WHEREAS by virtue of a warrant under the hand of the Warden (or Mayor) and seal of the said County (or City or Town) bearing date the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and \_\_\_\_\_, commanding the Treasurer of the said County (or City or Town) to levy upon the land hereinafter mentioned, for the arrears of taxes due thereon, with his costs, the Treasurer of the said County (or City or Town) did, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and \_\_\_\_\_, sell by public auction to \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_, in the County of \_\_\_\_\_, that certain parcel or tract of land and premises hereinafter mentioned, at and for the price or sum of \_\_\_\_\_ of lawful money of Canada, on account of the arrears of taxes alleged to be due thereon up to the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and \_\_\_\_\_, together with costs:

Now know ye, that we, the said \_\_\_\_\_ and \_\_\_\_\_, as Warden (or Mayor) and Treasurer of the said County (or City or Town), in pursuance of such sale, and of "*The Assessment Act*," and for the consideration aforesaid, do hereby grant, bargain and sell unto the said \_\_\_\_\_, his heirs and assigns, all that certain parcel or tract of land and premises containing \_\_\_\_\_, being composed of (*describe the land so that the same may be readily identified.*)

In witness whereof, we, the said Warden (or Mayor) and Treasurer of the said County (or City or Town), have hereunto set our hands and affixed the seal of the said County (or City or Town), this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and \_\_\_\_\_; and the Clerk of the County (or City or Town) Council has countersigned.

A. B., Warden (or Mayor). [Corporate Seal.]  
 C. D., Treasurer.

Countersigned,  
 E. F., Clerk.

32 V. c. 36, *Sched. C.*

## 4. *Sale of Intoxicating Liquors.*

CHAP. 181.—Liquor Licenses, p. 296.

“ 182.—By-laws of Municipalities for prohibiting sale of liquor, p. 340.

### CHAPTER 181.

#### An Act respecting the Sale of Fermented or Spirituous Liquors.

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| <p>Short title, s. 1.<br/>         Interpretation of words: s. 2.<br/>             “Liquor,”<br/>             “Tavern license,”<br/>             “Shop license,”<br/>             “License by wholesale.”<br/>         License Commissioners:<br/>             Appointment of, s. 3.<br/>             Powers of, ss. 4, 5.<br/>         Inspector of Licenses, s. 6.<br/>         Issue of Licenses:<br/>             When it may take place, s. 7.<br/>             Under direction of Board, s. 8.<br/>             Procedure to obtain license, ss. 9-10.<br/>             Not to be granted for certain times and places, s. 11.<br/>             Not to Commissioners and Inspectors, ss. 12-14.<br/>         Tavern Licenses:<br/>             Number, Limitation of, ss. 15-18.<br/>             Accommodation required, ss. 19, 20.<br/>             Security to be given, s. 22.<br/>         Shop Licenses:<br/>             Who may obtain, s. 23.<br/>             Limitation of number, s. 24.<br/>         Licenses by Wholesale:<br/>             Issue of, ss. 25, 26.<br/>             No licenses necessary for sale of native wines, s. 27.<br/>         Transfer of Licenses, 28.<br/>         Removal of licensee to different premises, s. 29.<br/>         Where license lapses, re-issue for remainder of period, s. 30.<br/>         Duties payable:<br/>             Amount of, ss. 31-33.<br/>         License Fund, ss. 34-36.<br/>         Regulations and Prohibitions:<br/>             License to be kept exposed, s. 37.</p> | <p>Notice of license to be exhibited, s. 38.<br/>         Liquors not to be sold without license, s. 39.<br/>         Nor kept for sale, s. 40.<br/>         Exceptions, brewers and chemists, ss. 41, 42.<br/>         No sale on Sunday, or after seven on Saturday night, s. 43.<br/>         Or from vessels in port, s. 44.<br/>         Liquor sold under shop or wholesale license, not to be drunk on premises, ss. 45, 46.<br/>         Penalties:<br/>             For taking money for license certificate report, etc., s. 47.<br/>             For issuing license contrary to Act, s. 48.<br/>             In case of Municipal officers or members of Councils, ss. 49, 50.<br/>             For selling without license, s. 51.<br/>             For selling on Sunday or after seven on Saturday night, etc., s. 52.<br/>             For keeping disorderly house, s. 53.<br/>             For harbouring constables on duty, s. 54.<br/>             For compromising prosecutions, ss. 55, 56.<br/>             For tampering with witness, s. 57.<br/>             Penalties not to be remitted or compromised, s. 58.<br/>             How penalties recoverable, s. 59.<br/>             Application of penalties, ss. 60, 61.<br/>         Powers of County Judge:<br/>             Revocation of licenses improperly obtained, s. 62.<br/>             Investigation of negligence of Inspector, s. 63.<br/>             Procedure in such cases, s. 64.</p> |
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Liquor License Act.*" Short title.

## INTERPRETATION.

2. In this Act the words and expressions following shall be construed as follows :— Interpretation

**"Liquors" and "Liquor."** (1.) "Liquors" or "Liquor" shall be construed to mean and comprehend all spirituous and malt liquors, and all combinations of liquors and drinks and drinkable liquids which are intoxicating. 37 V. c. 32, s. 1.

**"Tavern license."** (2.) "Tavern license" shall be construed to mean a license for selling, bartering or trafficking by retail in fermented, spirituous or other liquors, in quantities of less than one quart, which may be drunk in the inn, ale or beer-house, or other house of public entertainment in which the same liquor is sold. 37 V. c. 32, s. 2.

**"Shop license."** (3.) "Shop license" shall be construed to mean a license for selling, bartering or trafficking by retail in such liquors in shops, stores, or places other than inns, ale or beer-houses, or other houses of public entertainment, in quantities not less than three half-pints at any one time, to any one person, and at the time of sale to be wholly removed and taken away, in quantities not less than three half-pints at a time. 37 V. c. 32, s. 3.

**"License by wholesale."** (4.) "License by wholesale" or "Wholesale license" shall be construed to mean a license for selling, bartering or trafficking, by wholesale only, in such liquors in warehouses, stores, shops, or places other than inns, ale or beer-houses, or other houses of public entertainment, in quantities not less than five gallons in each cask or vessel at any one time; and in any case where such selling by wholesale is in respect of bottled ale, porter, beer, wine or other fermented or spirituous liquor, each such sale shall be in quantities not less than one dozen bottles of at least three half-pints each, or two dozen bottles of at least three-fourths of one pint each, at any one time. 37 V. c. 32, s. 4.

**Liquor in bottles.**

#### LICENSE COMMISSIONERS.

**Board of License Commissioners.**

3. There shall be a Board of License Commissioners to be composed of three persons to be appointed from time to time by the Lieutenant-Governor for each City, County, Union of Counties or Electoral District, as the Lieutenant-Governor may think fit; and any two of the said Commissioners shall be a quorum, and each of them shall cease to hold office on the thirty-first day of December in each year, but he may be reappointed; and the said office shall be honorary and without any remuneration. 39 V. c. 26, s. 1. 40 V. c. 18, s. 1.

**Powers of the commissioners.**

4. The License Commissioners may at any time before the first day of May in each year, pass a resolution or resolutions for regulating and determining the matters following, that is to say:

**For defining requisites for granting tavern and licenses.**

(1.) For defining the conditions and qualifications requisite to obtain tavern licenses for the retail, within the Municipality, of spirituous, fermented or other manufactured liquors, and also shop licenses for the sale, by retail, within the Municipality, of

such liquors in shops or places other than taverns, inns, ale-houses, beer-houses or places of public entertainment;

(2) For limiting the number of tavern and shop licenses respectively, and for defining the respective times and localities within which and the persons to whom such limited number may be issued within the year, from the first day of May of one year till the thirtieth day of April inclusive of the next year;

Limiting number of licenses, etc.

(3) For declaring that in Cities a number not exceeding ten persons, and in Towns a number not exceeding four persons, qualified to have a tavern license, may be exempted from the necessity of having all the tavern accommodation required by law;

Exemption from having accommodation.

(4) For regulating the taverns and shops to be licensed;

Regulations

(5) For fixing and defining the duties, powers, and privileges of the Inspector of Licenses of their District. 37 V. c. 32, s. 9; 39 V. c. 26, s. 4.

5. In and by any such resolution of a Board of License Commissioners, the said Board may impose penalties for the infraction thereof. 37 V. c. 32, s. 48.

Penalties may be imposed by regulations.

#### INSPECTOR OF LICENSES.

6. An Inspector of Licenses shall be appointed by the Lieutenant-Governor from time to time for each City, County, Union of Counties, or Electoral District as the Lieutenant-Governor may think fit; and each Inspector shall, before entering upon his duties, give such security as the Treasurer of the Province may require for the due performance of his said duties, and for the payment over of all sums of money received by him according to the provisions of this Act; and the salary of each Inspector shall be fixed by the Lieutenant-Governor in Council. 39 V. c. 26, s. 8; 40 V. c. 18, s. 1.

Inspector of Licenses, his appointment, powers and security.

#### ISSUE OF LICENSES.

7. The Lieutenant-Governor in Council may direct the issue of licenses on stamped paper, written or printed, or partly written and partly printed, of the several kinds hereinbefore mentioned; and the said licenses shall be signed by the Treasurer of this Province, and dated as of the first day of May in each year, and shall thence continue in force for one year, and shall expire on the thirtieth day of April in the next ensuing year.

Issue of licenses.

2. After the first of May tavern and shop licenses may be issued between the first and fifteenth days of May in each year; and licenses by wholesale may be issued between the first and last days of May in each year; and all such licenses shall be deemed to have been issued on the said first day of May.

After the 1st of May.



In special cases.

3. Where special grounds are shewn, the License Commissioners may direct one or more licenses to issue at any time after the said first day of May, if within the limit authorized by this Act. 37 V. c. 32, s. 5; 39 V. c. 26, ss. 4 & 24.

Licenses, how issued.

8. Every license shall be issued, under the direction of the respective Boards of License Commissioners, by the Inspector of Licenses for the License District in which the tavern, shop, warehouse or other place to which the license is to apply is situate, except in the case of licenses for vessels, which may be issued under the direction of the License Commissioners by the Inspector of Licenses for any License District to or from any port in which the vessel sails, or at any port in which she calls. 37 V. c. 32, s. 8; 40 V. c. 18, s. 2.

Vessel Licenses.

No tavern or shop license to be granted except upon petition and report thereon.

9. A license to sell spirituous, fermented or other manufactured liquors, by retail, in any tavern, aléhouse, beerhouse, place of public entertainment or shop, shall not be granted except upon petition by the applicant to the License Commissioners of the District in which the license is to have effect, praying for the same; nor until the Inspector, to be appointed as hereinbefore provided, has reported in writing to the License Commissioners, that the applicant is a fit and proper person to have a license and (in the case of a tavern license) has all the accommodation required by law, and that the applicant is known to the Inspector to be of good character and repute; and every such report shall be duly filed by the License Commissioners and shall remain open to the inspection of any ratepayer of the Municipality or any Provincial officer. 37 V. c. 32, s. 13; 39 V. c. 26, s. 9.

Report to be filed.

When petition for license to be presented.

2. Every petition for a tavern license, which is to take effect on the first day of May in any year, shall be filed with the License Inspector for the District wherein it is to have effect on or before the first day of April next preceding. 40 V. c. 18, s. 4.

Report not to be conclusive.

3. The Inspector shall not report in favour of any applicant other than the true owner of the business of the tavern or shop proposed to be licensed, and his report shall be for the information only of the License Commissioners, who shall nevertheless exercise their own discretion on each application.

May be dispensed with.

4. Where the applicant for a tavern or shop license resides in a remote part of the License District, or where for any other reason the License Commissioners see fit, they may dispense with the report of the Inspector, and act upon such information as may satisfy them in the premises. 37 V. c. 32, s. 13; 39 V. c. 26, ss. 11, 13.

Mode of procedure for ob-

10. If upon application of any person requiring a tavern or shop license, it appears that such applicant is the true owner of

the business of such tavern or shop, and has complied with the requirements of the law, and of any municipal by-laws in force in that behalf, and also with the regulations and requirements of the License Commissioners, and is one of the persons designated or otherwise approved of by the License Commissioners, the said License Commissioners may grant such applicant a certificate under the hands of any two of them, stating that he is entitled to a license for a certain time, and for a certain tavern, inn, house or place of public entertainment or shop within the Municipality, to be mentioned in such certificate. *See* 37 V. c. 32, s. 14; 39 V. c. 26, s. 11.

taining tavern  
or shop  
licenses.

2. The license duty shall then be paid by the applicant into such bank as may be designated by the Provincial Treasurer, to the credit of the "License Fund Account," for the License District; and upon production by the applicant to the Inspector of the certificate of the License Commissioners, together with a receipt shewing payment in full of the duty to the credit of the License Fund Account, the Inspector may issue the license authorized by the Commissioners. 40 V. c. 18, s. 28.

11. The License Commissioners shall not grant any certificate for a license, or any certificate whatsoever, whereby any person can obtain or procure any license for the sale of spirituous, fermented or intoxicating liquors, on the days of the Exhibition of the Agricultural Association of Ontario, or of any Electoral District, or Township, Agricultural Society Exhibition, either on the grounds of such Society, or within the distance of three hundred yards from such grounds. 37 V. c. 32, s. 14.

No license to  
be granted for  
certain times  
and places.

12. A tavern or shop license shall not be granted under the provisions of this Act or any other Act of the Legislature of Ontario respecting the sale of spirituous or fermented liquors to or for the benefit of any person who is a License Commissioner or License Inspector, and every License so issued shall be void. 40 V. c. 8, s. 76.

No license to  
be granted to  
Commissioner  
or Inspector.

13. A tavern or shop license shall not be issued under the provisions of this Act or any such Act for premises within any License District of which any of the License Commissioners or of the License Inspectors for such District is the owner, and every License Commissioner who knowingly issues, and every License Inspector who knowingly recommends the issue of a license for any such premises, contrary to the provisions of this section, shall incur a penalty of five hundred dollars. 40 V. c. 8, s. 77.

License not to  
be issued for  
any premises  
owned by such  
person in his  
district.

2. The preceding sub-section shall not extend or apply to premises owned or occupied by a joint-stock company in which a License Commissioner is a shareholder, but in every such case the License Commissioner shall not, under a penalty of five hundred dollars, vote upon any question affecting the granting

Last sub-sec-  
tion not to  
apply to com-  
panies in which  
commissioner,  
etc., is a share-  
holder.

of a license to the company, or for premises owned or occupied by it. 40 V. c. 8, s. 78.

License limited to person and place for which it was granted, subject to ss. 28-29.

**14.** Subject to the provisions of this Act as to removals and the transfer of licenses, every license for the sale of liquor shall be held to be a license only to the person therein named and for the premises therein described, and shall remain valid only so long as such person continues to be the occupant of the said premises and the true owner of the business there carried on. 40 V. c. 18, s. 5.

#### TAVERN LICENSES.

##### *Number.*

Limitation of licenses.

In cities, towns and villages.

**15.** The number of tavern licenses to be granted in the respective Municipalities shall not in each year be in excess of the following limitations: in Cities, Towns and incorporated Villages respectively, according to the following scale, that is to say, one for each full two hundred and fifty of the first one thousand of the population, and one for each full four hundred over one thousand of the population; but in no case shall this limit authorize any increase in any Municipality in excess of the number of licenses therein issued for the year ending the first day of March, one thousand eight hundred and seventy-six, unless from the future increase of the population the License Commissioners think a larger number has become necessary, but not in any case exceeding the limit imposed by this Act;

In villages which are county towns.

2. In incorporated Villages, being County Towns, the limit may be five in number, and in the Town of Clifton three hotels near the Falls of Niagara, which may be licensed, may be excluded from the number which would otherwise be the maximum limit under this Act. 39 V. c. 26, s. 2.

Manner of determining the population with a view to the number of licenses.

**16.** The number of the population which is to determine the number of licenses at any time under this Act shall be according to the then last preceding census taken under the authority of the Dominion of Canada, except where the License Commissioners are at any time of opinion that, owing to a large increase of population since such census, an increased number of licensed taverns is needed for the convenience and accommodation of travellers; and in that case, if the License Commissioners so certify, and the Council of the Municipality memorialize the Lieutenant-Governor for an increase of the number of license taverns, the Lieutenant-Governor in Council may authorize a new census to be taken under the authority of a by-law of the Municipality and at the expense of the Municipality, and the limit for the number of licenses shall thereafter, upon each such new census, be one for each full two hundred and fifty of the population under one thousand, and one for each five hundred over one thousand of the population.



2. In case of the alteration or formation of any Municipality subsequent to such census of the Dominion of Canada, the population of such Municipality, for the purposes of this Act, may be ascertained by the said Commissioners by reference to the enumeration on which such census took place, or by a new census taken under the provisions of this section.

In case of alteration or formation of municipality.

3. Where, since the said Dominion census, a census has been taken in any Municipality under the authority of the Council having jurisdiction, the limit may be the same as in the case of a census taken under this section for the purposes of this Act.

Or municipal census.

39 V. c. 26, s. 3.

17. The Council of every City, Town, Village or Township may, by by-law to be passed before the first day of March in any year, limit the number of tavern licenses to be issued therein for the then ensuing license year, beginning on the first day of May, or for any future license year until such by-law is altered or repealed, provided such limit is within the limit imposed by this Act;

Council may limit.

2. The Council shall cause a certified copy of such by-law to be sent immediately after the passing thereof to the License Commissioners of the District in which the Municipality is situate.

Copy of by-law limiting to be sent to Commissioners.

39 V. c. 26, s. 2 (3).

18. In any case where the License Commissioners of any License District do not think fit, or are unable to grant a new license to any applicant who has been licensed during the preceding twelve months, or any part thereof, they may, nevertheless, by resolution, provide for extending the duration of the existing license for any specified period of the year, not exceeding three months at their discretion, upon payment by the applicant, of a sum not exceeding the proportionate part of the duty payable for such license for the then next ensuing license year; and such license, when a certificate of the extension aforesaid has been endorsed thereon, under the hand of the Inspector of Licenses for the License District, shall remain valid for the period specified in the resolution of the Commissioners, and no longer: but this provision shall not be construed to confer on the License Commissioners any authority to exceed the limit prescribed by this Act as to the number of tavern licenses to be granted in any year, except in Cities, where the License Commissioners may in their discretion, having regard to the particular circumstances of the City, and of each application, grant further tavern licenses, but within the number of such licenses granted for the year ending on the thirtieth day of April, 1877, and except in a locality largely resorted to in summer by visitors, where the License Commissioners may, if they think fit, grant one additional tavern license, but not to extend beyond six months, commencing on the first day of May in each year.

Limited licenses.

40 V. c. 18, s. 33.

*Accommodation.*

Accommodation required.

**19.** Every tavern or inn authorized to be licensed under the provisions of this Act shall contain, and during the continuance of the license shall continue to contain, in addition to what may be needed for the use of the family of the tavern or inn-keeper, not less than four bed-rooms, together with, in every case, a suitable complement of bedding and furniture, and (except in Cities and incorporated Towns) there shall also be attached to the said tavern or inn, proper stabling for at least six horses; but the foregoing requirements shall not apply to such taverns as come within the third sub-section of section four of this Act.

Not to communicate with grocery.

**2.** Such tavern or inn shall form no part of, and shall not communicate by any entrance with any shop or store wherein goods or merchandize known as groceries or provisions are kept for sale; but this sub-section shall not apply to taverns in Townships, unless so provided by by-law of the Township Council. 37 V. c. 32, s. 12; 40 V. c. 18, s. 3.

Every tavern to be an eating house.

**20.** In addition to the accommodation required by the last preceding section, each tavern or house of entertainment shall be shown, to the satisfaction of the License Commissioners, to be a well-appointed and sufficient eating-house, with the appliances requisite for daily serving meals to travellers; and the requirements of this section shall apply to all taverns or houses of entertainment, without any exception whatever, and continuously, for the whole period of the license. 39 V. c. 26, s. 5.

City or town council may prescribe further requirements as to tavern.

**21.** The Council of any City or Town may, by by-law to be passed before the first day of March in any year, prescribe for the then ensuing license year beginning on the first day of May, any requirements in addition to those in the last two preceding sections mentioned, as to accommodation to be possessed by taverns or houses of entertainment, as the Council may see fit; and the License Commissioners upon receiving a copy of such by-law shall be bound to observe the provisions thereof; and such by-law shall continue in full force for such year and any future year until repealed. 39 V. c. 26, s. 6.

*Security to be given.*

Security to be given by tavern licensee.

**22.** Before any tavern license is granted, the person applying for the same shall enter into a bond to Her Majesty in the sum of two hundred dollars, with two good and sufficient sureties, (to be approved of by the Inspector) in the sum of one hundred dollars each, conditioned for the payment of all fines and penalties such person may be condemned to pay for any offence against any Act, by-law or provision in the nature of law, relative to taverns or houses of public entertainment then and thereafter to be in force, and to do, perform and observe all

the requirements thereof, and to conform to all by-laws and regulations that may be established by competent authority in such behalf, and such bond shall be in the words or to the effect of Schedule A to this Act; and when executed, shall be filed in the office of the Inspector of Licenses, to be by him transmitted to the office of the Provincial Treasurer. 39 V. c. 26, s. 7.

## SHOP LICENSES.

**23.** A shop license shall not be granted to any person unless he has filed his application with the Inspector on or before the first day of April in that year, and unless the Inspector has reported to the License Commissioners that he is a person of good character, and that his shop and premises are suitable for carrying on a reputable business, and unless he executes with sureties the bond in the form expressed in Schedule B to this Act. 39 V. c. 26, s. 10.

Shop licenses, to whom given.  
Security.

**24.** The Council of every City, Town, Village or Township may, by by-law to be passed before the first day of March, in any year, limit the number of shop licenses to be granted therein for the then ensuing license year, beginning on the first day of May, and in such by-law or by any other by-law passed before the first day of March, may require the shopkeeper to confine the business of his shop solely and exclusively to the keeping and selling of liquor, or may impose any restrictions upon the mode of carrying on such traffic as the Council may think fit.

Number of shop licenses limited, and licenses may be subjected to certain restrictions.

**2.** It shall be the duty of the Clerk, immediately after the passing of such by-law, to send a certified copy thereof to the License Commissioners within whose License District the Municipality is situate and such by-law shall be binding upon the License Commissioners, and any shop license to be issued shall conform to the provisions thereof; and such by-law shall remain in force for any future year until repealed, and any Clerk who neglects, omits or refuses to send such certified copy shall incur a penalty of not less than forty nor more than one hundred dollars. 37 V. c. 32, s. 10; 39 V. c. 26, s. 12.

Certified copy to be sent to License Commissioners.

## LICENSES BY WHOLESALE.

**25.** The Inspector of Licenses of the License District, in any Municipality in which the license applied for is to have effect, shall issue to any applicant, upon a requisition therefor signed by him, and after payment to the Inspector of the proper duty thereon, a license for selling fermented, spirituous or other liquors, by wholesale only, in his warehouse, store, shop, or place to be defined in said license, and situate within the said Municipality, and such license shall be deemed a license by wholesale within the meaning and subject to the provisions of the

Issue of licenses by wholesale.



fourth sub-section of the second section of this Act. 37 V. c. 32, s. 15; 39 V. c. 26, s. 14.

Regulations  
as to issue of  
wholesale  
licenses.

**26.** Wholesale licenses may be issued at any time during the year after the License Commissioners of the District in which such license is to have effect, have directed the same to be granted, and shall be strictly limited to persons who carry on the business of selling by wholesale or in unbroken packages, and any wholesale license so issued shall be and become void in case the holder thereof, at any time during the currency of the said license, directly or indirectly, or by or with any partner, clerk, agent or other person, carries on, upon the premises to which such license applies, the business of a retail dealer in any other goods, wares or merchandize. 40 V. c. 18, s. 29; 39 V. c. 26, s. 14.

Manufac-  
turers of native  
wines.

**27.** Manufacturers of native wines from grapes grown and produced in Ontario, and who sell such wines in quantities of not less than one gallon, or two bottles of not less than three half-pints each at one time shall be exempt from any duty under this Act, and shall not be required to obtain any license for so selling wines so manufactured. 39 V. c. 26, s. 15; 40 V. c. 18, s. 37.

#### TRANSFER OF LICENSES.

Transfers of  
licenses.

**28.** In case any person having lawfully obtained a license under this Act before the expiration of his license dies, or sells, or by operation of law or otherwise assigns his said business, or removes from the house or place in respect of which the said license applies, his said license shall, *ipso facto*, become forfeited, and be absolutely null and void to all intents and purposes whatsoever,—unless such person his assigns or legal representatives, within one month after the death, assignment, or removal of the original holder of such license, or other period in the discretion of the License Commissioners of the District in which the said license has effect, obtains their written consent either for the continuance of the said business or to transfer such license to any other person, and thereupon forthwith transfers the same to such other person, who, under such transfer, may exercise the rights granted by such license, subject to all the duties and obligations of the original holder thereof, until the expiration thereof, in the house or place for which such license was issued and to which it applies, but in no other house or place. 40 V. c. 18, s. 6.

On transfer of  
tavern license  
new report  
necessary.

**2.** In every such case of transfer of a tavern license, the person in whose favour any such transfer is to be made shall first produce to the License Commissioners a report of the Inspector similar to that mentioned in the ninth section of this Act. 40 V. c. 18, s. 7.

## REMOVAL OF LICENSEE.

**29.** Any Inspector of Licenses may, after resolution allowing the same, of the License Commissioners, endorse on any tavern or shop license permission to the holder thereof, or his assigns or legal representatives, to remove from the house to which his said license applies to another house to be described in an endorsement to be made by the said Inspector on the said license, and situate within the same Municipality, and possessing all the accommodation required by law.

Inspector of Licenses may consent to removal of tavern keeper to another house.

2. Such permission, when the approval of the said Inspector is endorsed on the said license, shall authorize the holder of the said license to sell the same liquors in the house mentioned in the endorsement during the unexpired portion of the term for which the said license was granted, in the same manner, and upon the same terms and conditions; but no such permission shall be granted unless and until the person applying therefor has filed with the License Commissioners a report of the Inspector containing the information required by law in case of application for a license, and any bond or security which such holder of a license may have given for any purpose relative to such license, shall apply to the house or place to which such removal is authorized, but such permission shall not entitle him to sell at any other than this one place. 37 V. c. 32, s. 18; 40 V. c. 18, s. 8.

Effect of such consent.

Bond to apply.

## WHERE LICENSE LAPSES.

**30.** In case for any cause the license becomes void, or in case the term or interest of the holder of a license in the premises licensed ceases before the expiry of the license, or if such licensee absconds or abandons the premises, or becomes insolvent, the License Commissioners may grant a new license for the same premises, subject to the provisions of this Act, upon such terms as to the payment or refund by the new licensee of the duty for the unexpired period to the person entitled thereto under the original license, as to the License Commissioners may seem just. 40 V. c. 18, s. 9.

How licenses may be granted for premises where for any cause the license becomes void, &c.

## DUTIES PAYABLE.

**31.** The following license duties shall hereafter be payable, and shall be in lieu of all others, Provincial or Municipal—that is to say:

Duties.

1. For each wholesale license, the sum of one hundred and fifty dollars:
2. For each tavern license in Cities, one hundred dollars;  
in Towns, eighty dollars;  
in other Municipalities, sixty dollars;

3. For each shop license in Cities, one hundred dollars ;  
in Towns, eighty dollars ;  
in other Municipalities, sixty dollars ;
4. For each license for a vessel navigating the waters of this Province, one hundred dollars. 39 V. c. 26, ss. 16 (1) & 26.

Council may impose a larger duty up to \$200, but not more without consent of electors.

Rev. Stat. c. 174.

**32.** The Council of any Municipality may by by-law to be passed before the first day of March in any year, require a larger duty to be paid for tavern or shop licenses therein, but not in excess of two hundred dollars in the whole, unless the by-law has been approved by the electors in the manner provided by "*The Municipal Act*," with respect to by-laws which before their final passing require the assent of the electors of the Municipality.

2. Such by-law shall take effect from the passing thereof, and continue in force for any future year until repealed.

3. Any by-law so approved shall not be varied or repealed unless the varying or repealing by-law has been in like manner submitted to and approved of by the electors of the Municipality. 37 V. c. 32, s. 23 ; 39 V. c. 26, s. 16 (2) ; 40 V. c. 18, s. 27.

When duties now exceed the statutory figure they are not affected.

**33.** In any Municipality where, by virtue of any by-law in that behalf, passed under the provisions of any former Act. a larger sum or duty in the whole than that mentioned in section thirty-one was on the tenth day of February, one thousand eight hundred and seventy-six, payable for any shop or tavern license, such sum or duty shall be the lowest duty payable under this Act for any such license, until altered by by-law of the Municipality to be passed for the purpose, but in no case shall the duty be under the amount in the said section specially prescribed. 39 V. c. 26, s. 16. (3).

#### LICENSE FUND.

The duties, fines and penalties to form a License Fund.

**34.** All sums received from duties on tavern, shop and wholesale licenses, and received by the Inspector for fines and penalties, shall form the License Fund of the City, County, Union of Counties or Electoral District respectively for which the Board of License Commissioners has been appointed. 39 V. c. 26, s. 19.

Application of the Fund.

2. The License Fund shall be applied, under regulations of the Lieutenant-Governor in Council, for the payment of the salary and expenses of the Inspector, and for the expenses of the office of the Board and of officers, and otherwise in carrying the provisions of the law into effect, and the residue, on the thirtieth day of June in each year, and at such other times as may be prescribed by the regulations of the Lieutenant-Governor in Council, shall be paid over,—one-third to the Treasurer



of the Province, to and for the use of the Province, and the other two-thirds to the Treasurer of the City, Town, Village, or Township Municipality in which the licensed premises are respectively situate; but in cases where any Municipality by by-law requires a larger duty in the case of tavern or shop licenses to be paid than the specificum mentioned in the thirty-first section for any license, the whole of such excess shall be paid over to the Treasurer of such Municipality. 39 V. c. 26, s. 19.

3. Cheques upon the License Fund Account shall be drawn by the Inspector, and countersigned by the Chairman, or any two of the License Commissioners, subject to the regulations of the Lieutenant-Governor in Council. 40 V. c. 18, s. 28.

Cheques upon the License Fund Account.

**35.** Any penalty in money recovered under this Act, in cases in which an Inspector is the prosecutor or complainant, shall be paid by the convicting Justice, Justices or Police Magistrate to the Inspector, and paid in by him to the credit of the "License Fund Account";

Application of penalties where Inspector is prosecutor.

2. In case the whole amount of the penalty and costs is not recovered, the amount recovered shall be applied, first, to the payment of the costs, and the balance shall be appropriated as hereinafter mentioned.

Where the whole penalty and costs are not recovered.

3. In any case where the Inspector has prosecuted and obtained a conviction, and has been unable to recover the amount of costs, the same shall be made good out of the said License Fund.

Where costs are not recovered.

4. In any case where the Inspector has prosecuted and failed to obtain a conviction, he shall be indemnified against all costs out of the License Fund, should the Justice, Justices or Police Magistrate before whom the complaint is made certify that such officer had reasonable and probable cause for preferring such prosecution or complaint. 39 V. c. 26, s. 18.

Indemnity of Inspector where he fails to obtain a conviction.

**36.** All moneys received for vessel licenses shall belong to Her Majesty, and be paid over to the Treasurer of the Province.

Vessel licenses.

39 V. c. 26, s. 26.

#### REGULATIONS AND PROHIBITIONS.

**37.** All licenses shall be constantly and conspicuously exposed in the warehouses, shops or in the bar-room of taverns, inns, alehouses, beerhouses or other places of public entertainment, and in the bar-saloon, or bar cabin of vessels, under a penalty of five dollars for every day's wilful or negligent omission so to do, to be recovered with costs from the merchant, shopkeeper or tavern, inn, alehouse or beerhouse-keeper or

Licenses to be kept exposed.  
Penalty on non-exposure.

keeper of any other place of public entertainment, or master, captain or owner of the vessel so making default. 37 V. c. 32, s. 8.

Tavern keep-  
ers to exhibit  
notice of being  
licensed.

**38.** Every person who keeps a tavern, or other place of public entertainment, in respect of which a tavern license has duly issued and is in force, shall exhibit over the door of such tavern inn, alehouse, beerhouse, or other place of public entertainment, in large letters, the words "*Licensed to sell wine, beer, and other spirituous or fermented liquors*" and in default thereof shall be liable to a penalty of five dollars, besides costs. 37 V. c. 32, s. 19.

Penalty.

No person  
shall sell li-  
quors without  
license.

**39.** No person shall sell by wholesale or retail any spirituous, fermented, or other manufactured liquors without having first obtained a license under this Act authorizing him so to do: but this section shall not apply to sales under legal process, or for distress, or sales by Assignees in Insolvency. 37 V. c. 32, s. 24.

2. No person unless duly licensed shall by any sign or notice hold himself out to the public that he is so licensed; and the use of any sign or notice for this purpose is hereby prohibited. 40 V. c. 18, s. 11.

Persons not to  
keep spiritu-  
ous, etc., li-  
quors for sale  
unless licensed.

**40.** No person shall keep or have in any house, building, shop, eating-house, saloon, or house of public entertainment, or in any room or place whatsoever, any spirituous, fermented or other manufactured liquors for the purpose of selling, bartering or trading therein, unless duly licensed thereto under the provisions of this Act. 37 V. c. 32, s. 25.

Last two pre-  
ceding sections  
not to apply to  
brewers, etc.,

**41.** Sections thirty-nine and forty shall not prevent any brewer, distiller, or other person duly licensed by the Government of Canada for the manufacture of fermented, spirituous, or other liquors, from keeping, having or selling any liquor manufactured by him in any building wherein such manufacture is carried on, provided such building forms no part of and does not communicate by any entrance with any shop or premises wherein any article authorized to be manufactured under such license is sold by retail, or wherein is kept any broken package of such articles.

2. Such brewer, distiller or other person is however further required to first obtain a license to sell by wholesale under this Act the liquor so manufactured by him, when sold for consumption within this Province, under which license the said liquor may be sold by sample, or in original packages, in any Municipality, as well as in that in which it is manufactured; but no such sale shall be in quantities less than those prescribed in sub-section four of section two of this Act. 37 V. c. 32, s. 26.

**42.** The said sections numbered thirty-nine and forty of this Act shall not prevent any chemist or druggist duly registered as such under and by virtue of "*The Pharmacy Act*," from keeping, having or selling liquors for strictly medicinal purposes, and then only in packages of not more than twelve ounces at any one time, except under certificate from a registered medical practitioner; but it shall be the duty of such chemist or druggist to record in a book, to be open to the inspection of the License Commissioners or Inspector, every sale or other disposal by him of liquor, and such record shall show as to every such sale or disposal, the time when, the person to whom, the quantity sold, and the certificate, if any, of what medical practitioner, and in default of such sale or disposal being so placed on record, every such sale or disposal shall, *prima facie*, be held to be in contravention of the provisions contained in the said thirty-ninth and fortieth sections of this Act. 37 V. c. 32, s. 27; 40 V. e. 18, s. 12.

**43.** In all places where intoxicating liquors are, or may be, sold by wholesale or retail, no sale or other disposal of the said liquors shall take place therein, or on the premises thereof, or out of or from the same, to any person or persons whomsoever, from or after the hour of seven of the clock on Saturday night till six of the clock on Monday morning thereafter, and during any further time on the said days, and any hours or other days during which, by any statute in force in this Province, or by any by-law in force in the Municipality wherein such place or places may be situated, the same, or the bar-room or bar-rooms thereof, ought to be kept closed, save and except in cases where a requisition for medical purposes, signed by a licensed medical practitioner, or by a Justice of the Peace, is produced by the vendee or his agent; nor shall any such liquor, whether sold or not, be permitted or allowed to be drunk in any such places during the time prohibited by this Act for the sale of the same, except by the occupant or some member of his family, or lodger in his house. 37 V. e. 32, s. 28; 40 V. c. 18, s. 13.

**44.** Where a license is issued, under this Act, to authorize the sale of liquors upon any vessel navigating any river, lake, or water in this Province, no sale or other disposal of liquor shall take place thereon or therefrom, to be consumed by any person other than a passenger on the said vessel, whilst such vessel is at any port, pier, wharf, dock, mooring, or station; nor shall any liquor, whether sold or not, be permitted or allowed to be consumed in or upon any vessel departing from and returning to the same port or wharf, dock, mooring, or station, within the time hereinafter in this section mentioned, by any person during the hours prohibited by the preceding section for sale of the same except for medical purposes, as provided in the preceding section.

2. In case any such sale or other disposal of liquor takes

Nor to chemists.

Rev. Stat. c. 145.

All places where intoxicating liquors sold to be closed from seven o'clock on Saturday night till six o'clock on Monday morning.

Exception.

Sale of liquor from ships in port prohibited.

Penalty.



place, the said license shall *ipso facto* be and become forfeited and absolutely void, and the captain or master in charge of such vessel, and the owner or person navigating the same, as well as the person actually selling or disposing of liquor contrary to this section, shall be severally and respectively liable to pay to the Crown, for the public uses of this Province the sum of one hundred dollars; and any person who sells or disposes of any liquor contrary to the provisions of this section, shall also be liable to the same penalty and punishment therefor as are hereinafter prescribed in the fifty-second section of this Act. 37 V. e. 32, s. 29; 40 V. e. 18, s. 14.

Shop license not to authorize liquor sold to be consumed in the house.

Penalty.

**45.** No person having a shop license to sell by retail, and no chemist or druggist, shall allow any liquors sold by him or in his possession, and for the sale of which a license is required, to be consumed within his shop, or within the building of which such shop forms part, or which communicates by any entrance with such shop, either by the purchaser thereof, or by any other person not usually resident within such building, under the penalty, in money, imposed by the fifty-first section of this Act. 37 V. c. 32, s. 20; 40 V. c. 18, s. 10.

Liquor not to be consumed on premises of persons having license by wholesale.

**46.** No person having a license to sell by wholesale, shall allow any liquors sold by him or in his possession for sale, and for the sale or disposal of which such license is required, to be consumed within his warehouse or shop, or within any building which forms part of or is appurtenant to, or which communicates by any entrance with any warehouse, shop or other premises wherein any article to be sold or disposed of under such license is sold by retail, or wherein there are kept any broken packages of such articles. 37 V. e. 32, s. 21.

#### PENALTIES.

Not lawful to take money for certificate, &c.

Penalty.

**47.** It shall not be lawful for the License Commissioners of any License District, or any of them, nor for any Inspector, either directly or indirectly, to receive, take, or have any money whatsoever, for any certificate, license, report, matter or thing connected with or relating to any grant of any license, other than the sum to be paid therefor as the duty under the provisions of this Act, or to receive, take or have any note, security or promise for the payment of any such money or any part thereof, from any person or persons whatsoever; and any person or persons guilty of, or concerned in, or party to any act, matter or thing contrary to the provisions of this section, or of sections ten and eleven, shall forfeit and pay to and for the use of Her Majesty a penalty of not less than fifty dollars, nor more than one hundred dollars, besides costs, for every such offence. 37 V. c. 32, s. 30.

Penalty for issuing any license com-

**48.** Any member of any Board of License Commissioners or any Inspector, officer or other person who, contrary to the

provisions of this Act, knowingly issues, or causes or procures to be issued, a tavern or shop license, or a certificate therefor, shall, upon conviction thereof, for each offence pay a fine of not less than forty dollars, nor more than one hundred dollars, and in default of payment of such fine, the offender or offenders may be imprisoned in the County Gaol of the County in which the conviction takes place for a period not exceeding three calendar months. 37 V. c. 32, s. 31.

**49.** If any officer of any Municipal Corporation is convicted of any offence under this Act, he shall, in addition to any other penalty to which he may be liable under this Act, thereby forfeit and vacate his office, and shall be disqualified to hold any office in any Municipality in this Province for two years thereafter. 37 V. c. 32, s. 32; 40 V. c. 18, s. 15.

Forfeiture of office by municipal officer if convicted.

**50.** If any member of any Municipal Council is convicted of any offence under this Act, he shall, in addition to any other penalty to which he may be liable under this Act, thereby forfeit and vacate his seat, and shall be ineligible to be elected to or to sit or vote in any Municipal Council for two years thereafter; and if any such person, after the forfeiture aforesaid, sits or votes in any Municipal Council, he shall incur a penalty of forty dollars for every day he so sits or votes. 37 V. c. 32, s. 33; 40 V. c. 18, s. 15.

Forfeiture of office by member of council if convicted.

Penalty.

**51.** Any person who sells or barter spirituous, fermented or manufactured liquors of any kind, or intoxicating liquors of any kind, without the license therefor by law required, or who otherwise violates any other provision of this Act, in respect of which violation no other punishment is prescribed, shall for the first offence, on conviction thereof, forfeit and pay a penalty of not less than twenty dollars besides costs, and not more than fifty dollars besides costs; and for the second offence, on conviction thereof, such person shall be imprisoned in the County Gaol of the County in which the offence was committed, to be kept at hard labour for a period not exceeding three calendar months. 37 V. c. 32, s. 35; 39 V. c. 26, s. 20.

Penalty for selling without license.

**52.** For punishment of offences against section forty-three of this Act, a penalty for the first offence against the provisions thereof, of not less than twenty dollars with costs or fifteen days' imprisonment with hard labour, in case of conviction, shall be recoverable from, and leviable against, the goods and chattels of the person or persons who are the proprietors in occupancy, or the tenants or agents in occupancy of the said place or places, who are found by himself, herself, or themselves, or his, her, or their servants or agents, to have contravened the enactment in the said forty-third section, or any part thereof; for the second offence, a penalty against all such of not less than forty dollars with costs, or twenty days' imprisonment with hard labour; for a third offence, a penalty against all such

Penalty for contravention of sec. 43.

of not less than one hundred dollars with costs, or fifty days' imprisonment with hard labour; and for a fourth or any after offence, a penalty against all such of not less than one nor more than three months' imprisonment with hard labour, in the Common Gaol of the County wherein such place or places are. 37 V. c. 32, s. 34.

Keepers of disorderly inns subject to certain penalties.

**53.** The Mayor or Police Magistrate of a Town or City, or the Reeve of a Township or Village, with any one Justice of the Peace, or any two Justices of the Peace having jurisdiction in the Township or Village, upon information to them, or one of them respectively, that any keeper of any inn, tavern, ale-house, beer-house, or other house of public entertainment, situate within their jurisdiction, sanctions or allows gambling or riotous or disorderly conduct in his tavern or house, may summon the keeper of such inn, tavern, ale or beer-house to answer the complaint, and may investigate the same summarily, and either dismiss the complaint with costs to be paid by the complainant or convict the keeper of having an improper or a riotous or disorderly house, as the case may be, and annul his license, or suspend the same for not more than sixty days, with or without costs, as in his or their discretion may seem just; and in case the keeper of any such inn, tavern, ale-house, beer-house or place of public entertainment, is convicted under this section, and his license annulled, he shall not be eligible to obtain a license for the period of two years thereafter and shall also be liable to the penalties by the fifty-first section prescribed. 37 V. c. 32, s. 36; 40 V. c. 18, s. 17.

Provisions as to harbouring constables on duty.

**54.** Any person licensed to sell wine, beer or spirituous liquors, or any keeper of the house, shop, room, or other place for the sale of liquors, who knowingly harbours or entertains any constable belonging to any police force, or suffers such person to abide or remain in his shop, room or other place during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance, or restoring order, or otherwise in the execution of his duty, shall, for any of the offences aforesaid, be deprived of his license. 37 V. c. 32, s. 58.

Penalty in case any person compromises, compounds, or settles a case.

**55.** Any person who, having violated any of the provisions of this Act, compromises, compounds or settles, or offers or attempts to compromise, compound or settle the offence with any person or persons, with the view of preventing any complaint being made in respect thereof, or if a complaint has been made with the view of getting rid of such complaint, or of stopping or having the same dismissed for want of prosecution or otherwise, shall be guilty of an offence under this Act, and on conviction thereof shall be imprisoned at hard labour in the Common Gaol of the County in which the offence was committed for the period of three calendar months. 37 V. c. 32, s. 39.



**56.** Every person who is concerned in, or is a party to, the compromise, composition or settlement mentioned in the next preceding section, shall be guilty of an offence under this Act, and on conviction thereof shall be imprisoned in the Common Gaol of the County in which the offence was committed for the period of three calendar months. 37 V. c. 32, s. 40.

Penalty for being concerned in any such compromise, etc.

**57.** Any person who, on any prosecution under this Act, tampers with a witness, either before or after he is summoned or appears as such witness on any trial or proceeding under this Act, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such person to absent himself, or to swear falsely, shall be liable to a penalty of fifty dollars for each offence. 37 V. c. 32, s. 42.

Penalty for tampering with a witness.

#### *Penalties not to be Remitted.*

**58.** No Police Magistrate or Justice or Justices of the Peace, License Commissioner or Inspector, or Municipal Council or Municipal officer, shall have any power or authority to remit, suspend or compromise any penalty or punishment inflicted under this Act. 37 V. c. 32, s. 41; 40 V. c. 18, s. 19.

Penalties or punishments not to be remitted.

#### *Recovery of Penalties by Distress.*

**59.** For the recovery of the penalties in money under this Act, and legal costs, upon and after conviction in cases not appealable, and in cases appealable where an appeal has not been perfected according to law, it shall be lawful for any Justice, Justices or Police Magistrate to issue a warrant of distress to any constable or peace officer, against the goods and chattels of the person or persons convicted; and in case no sufficient distress is found to satisfy the said conviction, then in cases not otherwise provided for by this Act, it shall be lawful for the said Justice, Justices or Police Magistrate to order that the person or persons so convicted be imprisoned in any Common Gaol or Gaol or Lock-up House, within the County in which such conviction was made, for any period not exceeding thirty days, unless the penalty and all costs are sooner paid. 37 V. c. 32, s. 43.

Penalties and costs, how recoverable.

#### *Application of Penalties.*

(See also Sec. 34.)

**60.** The penalties in money under this Act, or any portion of them which may be recovered, shall be paid to the convicting Justice, Justices, or Police Magistrate in the case, and shall by him, or them, in case the Inspector or any officer appointed by the Lieutenant-Governor or by the License Commissioners, is the prosecutor or complainant, be paid to the Inspector as provided in section thirty-five, and in case such Inspector or

Applications of penalties.

officer is not the prosecutor or complainant, then the same shall be paid to the Treasurer of the Municipality wherein the offence was committed. 37 V. c. 32, s. 43; 39 V. c. 26, s. 18.

Municipalities  
to set apart a  
third.

**61.** The Council of every Municipality shall set apart not less than one-third part of such fines or penalties received by the said Municipality for a fund to secure the prosecutions for infractions of this Act, and of any by-laws passed in pursuance thereof. 37 V. c. 32, s. 43.

#### POWERS OF COUNTY JUDGE.

##### *Revocation of Licenses improperly obtained.*

Power of  
County Judge  
as to licenses  
improperly ob-  
tained or  
licensee con-  
victed.

**62.** The Judge of the County Court of the County in which any Municipality is situate in any part of which a license granted is intended to take effect, upon the complaint of any person that such license has been issued contrary to any of the provisions of this Act or of any by-law in force in the said Municipality, or that such license has been obtained by any fraud, or that the person licensed has been convicted on more than one occasion of any violation of the provisions of the fifty-third section of this Act, or has been convicted on three several occasions of any violation of any of the provisions of this Act, whether the offences in respect of which such convictions were made were the same or different in their character, so long as such convictions were for offences committed on different days, shall summon the person to whom such license issued to appear, and shall proceed to hear and determine the matter of the said complaint in a summary manner, and may upon such hearing, or in default of appearance of the person summoned, determine and adjudge that such license upon any of the causes aforesaid, ought to be revoked, and thereupon shall order and adjudge that such license is and stands revoked and cancelled accordingly, and thereupon such license shall be and become inoperative and of none effect, and the person to whom such license issued shall thereafter, during the full period of two years, be disqualified from obtaining any further or other license under this Act. 37 V. c. 32, s. 37; 40 V. c. 18, s. 18.

##### *Investigation of Negligence of Inspector.*

Power of  
County Judge  
as to Inspec-  
tors neglecting  
their duties.

**63.** The Judge of the County Court of the County in respect of any part of which any Inspector or Inspectors of Licenses is or are appointed, upon a complaint made by any person that any such Inspector is guilty of wilfully neglecting to do or observe, or of wilfully doing any act, matter or thing contrary to his duty as such Inspector, shall summon such Inspector to appear, and shall proceed to hear and determine the matter of the said complaint; and upon such hearing, or in default of appearance of the said Inspector being duly summoned, may determine that such Inspector is guilty of the matter com-

plained of, and ought to be removed from his said office of Inspector, and shall order the same accordingly, and thereupon such person shall no longer be Inspector, and shall thereafter, for the full period of two years, be disqualified from being or becoming an Inspector of Licenses. 37 V. c. 32, s. 38

*Procedure in such cases.*

**64.** The complaint in the sixty-second and sixty-third sections mentioned, may be by a short petition to the Judge entitled "In the County Court of the County of———, and "In the matter of the license granted to —— (naming the defendant)," (or, "In the matter of ——, Inspector of Licenses for the —— Riding of the County of ——,") praying for the revocation of the said license, (or the removal of the Inspector, as the case may be,) and upon hearing the evidence adduced, or upon default of appearance of the prosecutor or defendant, the Judge may dismiss the matter of the complaint, or make such order as he deems just, with or without costs to be paid by the prosecutor or defendant, and the order on adjudication of the said Judge shall be final and conclusive, and shall not be the subject of appeal or revision by any Court whatever. 37 V. c. 32, s. 38; 40 V. c. 18, s. 18 (2).

Procedure under ss. 62, 63.

PROSECUTIONS.

**65.** All informations or complaints for the prosecution of any offence against any of the provisions of this Act, shall be laid or made in writing, (within thirty days after the commission of the offence, or after the cause of action arose, and not afterwards,) before any Justice of the Peace for the County or District in which the offence is alleged to have been committed, or in Cities and Towns where there is a Police Magistrate before such Police Magistrate, but may be made without any oath or affirmation to the truth thereof, and the same may be according to the form of Schedule C to this Act or to the like effect. 40 V. c. 18, s. 21 (1).

Information.

When to be aid.

Before whom.

Form.

**66.** Any person may be prosecutor or complainant in prosecutions under this Act. 37 V. c. 32, s. 47.

Any person may be prosecutor, etc.

**67.** No License Commissioner or Inspector of Licenses who is a Justice of the Peace, shall try or adjudicate upon any complaint for an infraction of any of the provisions of this Act committed within the limits of the License District for which he is a Commissioner or Inspector; but this section shall not be construed to apply to a Judge, or Junior Judge or Deputy Judge of a County. 40 V. c. 18, s. 38.

License Commissioners or Inspectors who are Justices of the Peace prohibited from trying certain complaints.

**68.** All prosecutions for the punishment of any offence against any of the provisions of sections thirty-nine, forty, forty-three, forty-four, forty-five, forty-seven, fifty-one and fifty-

Certain prosecutions to be before two or more Justices



or Police Magistrate.

32-3 V. c. 31  
(D).

Evidence to be taken in writing.

All other prosecutions may be before one or more Justices or a Police Magistrate.

Mode of procedure.  
Rev. Stat.  
c. 74.

Prosecutions under resolutions of License Commissioners, imposing penalties.

Rev. Stat.  
c. 174, s. 407.

three of this Act, or any section for the contravention of which a penalty or punishment is prescribed by section fifty-one, whether the prosecution is for the recovery of a penalty or for punishment by imprisonment, may take place before any two or more of Her Majesty's Justices of the Peace having jurisdiction in the County or District in which the offence is committed, or in Cities and Towns where there is a Police Magistrate, before the Police Magistrate of the City or Town, who, shall have authority to hear and determine any case in which the offence is alleged to have been committed within the County (for judicial purposes) wherein such City or Town is situate, in a summary manner, according to the provisions and after the forms contained in and appended to the Act of Parliament of Canada, entitled "*An Act respecting the duties of Justices of the Peace out of Sessions, in relation to Summary Convictions and Orders*," which Act, and the Acts already passed, or which may be hereafter passed, amending the same, shall be held to apply to all prosecutions and proceedings under this Act, so far as consistent with this Act.

2. The Justices or Police Magistrate shall in all cases reduce to writing the evidence of the witnesses examined before them, or him, and shall read the same over to such witnesses, who shall sign the same. 40 V. c. 18, s. 20.

**69.** All prosecutions under this Act, other than those mentioned in section sixty-eight, whether for the recovery of a penalty or otherwise, may be brought and heard before any one or more of Her Majesty's Justices of the Peace in and for the County where the forfeiture took place, or the penalty was incurred, or the offence was committed or wrong done, and in Cities and Towns in which there is a Police Magistrate, before the Police Magistrate; and the procedure shall be governed by *The Act respecting Summary Convictions before Justices of the Peace*. 37 V. c. 32, s. 45; 40 V. c. 18, s. 21 (1).

**70.** In all cases where the Board of License Commissioners in Cities passes a resolution in pursuance of the powers conferred upon them by the fourth and fifth sections of this Act, and in and by any such resolution, penalties are imposed for the infraction thereof, such penalties may be recovered and enforced by summary proceedings before the Police Magistrate (if any), or before any Justice of the Peace having jurisdiction, in the manner and to the extent that by-laws of Municipal Councils may be enforced under the authority of "*The Municipal Act*;" and the convictions in such proceedings may be in the form set forth in section four hundred and seven of the said last mentioned Act. 37 V. c. 32, s. 48.

#### APPEALS.

*In cases under Section 51.*

Right of appeal in cases under s. 51,

**71.** In all cases of prosecution for any offence against any of the provisions of this Act, for which any penalty or punish-

ment is prescribed by the fifty-first section of this Act, the conviction or order of the said Justices or Police Magistrate, as the case may be, shall, except as hereinafter mentioned, be final and conclusive, and, except as hereinafter mentioned, against such conviction or order there shall be no appeal to the Court of General Sessions of the Peace, or to any other Court. 40 V. c. 18, s. 21 (3).

2. An appeal shall lie from a conviction for any offence for which a penalty or punishment is prescribed by the fifty-first section of this Act to the Judge of the County Court of the County in which the conviction is made, sitting in Chambers, without a jury, provided a notice in writing of such appeal is given to the prosecutor or complainant within five days after the date of the said conviction, subject to the following provisions. 40 V. c. 18, s. 21 (4).

Procedure on such appeals.

3. The person convicted, in case he is in custody, shall either remain in custody until the hearing of such appeal before the said Judge, or (where the penalty of imprisonment with or without hard labour is adjudged) shall enter into a recognizance with two sufficient sureties, in the sum of two hundred dollars each, before the convicting Justices or Police Magistrate, conditioned personally to appear before the said Judge, and to try such appeal and abide his judgment thereupon, and to pay such costs as he may order, and in case the appeal is against a conviction whereby only a penalty or sum of money is adjudged to be paid, the appellant may, (although the order directs imprisonment in default of payment) instead of remaining in custody as aforesaid, give such recognizance as aforesaid, or may deposit, with the said Justices or Police Magistrate convicting, the amount of the penalty and costs, and a further sum of twenty-five dollars to answer the respondent's costs of appeal. 40 V. c. 18, s. 21 (5).

Appellant to enter into a recognizance,

or dep amount of penalty and costs.

4. Upon such recognizance being given or deposit made, the said Justices or Police Magistrate shall liberate such person if in custody, and shall forthwith deliver or transmit by registered letter post-paid, the depositions and papers in the case, with the recognizance or deposit as the case may be, to the Clerk of the County Court of the County wherein such conviction was had. 40 V. c. 18, s. 21 (6).

Justices to transmit depositions to Clerk of County Court.

5. The practice and procedure upon such appeal, and all the proceedings thereon, shall thenceforth be governed by *The Act respecting the Procedure on Appeals to the Judge of a County Court from Summary Convictions*, so far as the same is not inconsistent with this Act. 40 V. c. 18, s. 21 (7).

Rev. Stat. c. 75, to apply.

*In cases other than those under Section 51.*

72. In all cases of prosecutions for any offence against any of the provisions of this Act, other than those for which any

Appeal from convictions other than for

those under  
s. 51.

Rev. Stat  
c. 74.

penalty or punishment is prescribed by the said fifty-first section, an appeal shall lie from any order or conviction, in the same manner and to the same extent as is provided in and by *The Act respecting Summary Convictions before Justices of the Peace*. 37 V. c. 32, s. 46 ; 40 V. c. 18, s. 24.

#### PROCEDURE IN CASES WHERE PREVIOUS CONVICTION CHARGED.

Proceedings  
in cases where  
a previous  
conviction  
charged.

**73.** The proceedings upon any information for committing an offence against any of the provisions of this Act, in case of a previous conviction or convictions being charged, shall be as follows :

1. The Justices or Police Magistrate shall in the first instance inquire concerning such subsequent offence only, and if the accused be found guilty thereof, he shall then, and not before, be asked whether he was so previously convicted, as alleged in the information, and if he answers that he was so previously convicted, he may be sentenced accordingly ; but if he denies that he was so previously convicted, or stands mute of malice, or does not answer directly to such question the Justices or Police Magistrate shall then inquire concerning such previous conviction or convictions.

Number of pre-  
vious convic-  
tions, how  
proved.

2. The number of such previous convictions shall be proveable by the production of a certificate under the hand of the convicting Justices or Police Magistrate, or of the Clerk of the Peace, without proof of his signature or official character, or by other satisfactory evidence.

Previous con-  
victions need  
not be charged.

3. A conviction may in any case be had as for a first offence notwithstanding that there may have been a prior conviction or convictions for the same or any other offence.

Offences on  
same day.

4. Convictions for several offences may be made under this Act, although such offences may have been committed on the same day : but the increased penalty or punishment hereinbefore imposed shall only be recoverable in the case of offences committed on different days ; and after information laid for a first offence.

In case of a  
second or sub-  
sequent con-  
viction be-  
coming irre-  
gular by  
quashing of a  
first or pre-  
vious convic-  
tion,

Justices or  
Police Magis-  
trate may  
amend ;

5. In the event of any conviction for any second or subsequent offence becoming void or defective, after the making thereof, by reason of any previous conviction being set aside, quashed, or otherwise rendered void, the Justices or Police Magistrate by whom such second or subsequent conviction was made, may by warrant under his or their hand summon the person convicted to appear at a time and place to be named in such warrant, and may thereupon, upon proof of the due service of such warrant, if such person fails to appear, or on his appearance, amend such second or subsequent conviction, and



adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be held valid to all intents and purposes, as if it had been made in the first instance. And amended conviction valid.

6. In case any person who has been convicted of a contravention of any provision of any of the sections of this Act, numbered thirty-nine, forty, forty-one, forty-two or forty-four, or any section for the contravention of which a penalty or punishment is prescribed by section fifty-one, is afterwards convicted of an offence against any provision of any of the said sections, such conviction shall be deemed a conviction for a second offence, within the meaning of section fifty-one, and may be dealt with and punished accordingly, although the two convictions may have been under different sections; and in case any such person is afterwards again convicted of a contravention of any provision of any of the said sections, whether similar or not to the previous offences, such conviction shall in like manner be deemed a conviction for a third offence, within the meaning of section fifty-one, and may be dealt with and punished accordingly. Second offence; meaning of. Third offence. 40 V. c. 18 s. 16.

FORM OF INFORMATION AND OTHER PROCEEDING—  
AMENDMENTS.

74. In describing offences respecting the sale or other disposal of liquor, or the keeping, or the consumption of liquor in any information, summons, conviction, warrant, or proceeding under this Act, it shall be sufficient to state the sale, disposal, keeping, or consumption of liquor simply, without stating the name or kind of such liquor, or the price thereof, or any person to whom it was sold or disposed of, or by whom it was consumed; and it shall not be necessary to state the quantity of liquor so sold, disposed of, kept, or consumed, except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity. Description in informations. 40 V. c. 18, s. 22.

75. The forms given in the Schedules to this Act, or any forms to the like effect, shall be sufficient in the cases thereby respectively provided for, and where no forms are prescribed by the Schedules new ones may be framed according to those appended to The Act of Canada entitled "*An Act respecting the duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders*," or *The Revised Statute respecting the Procedure on Appeals to the Judge of the County Court from Summary Convictions*, or any Acts amending the same respectively—such forms being made short and concise in the mode indicated in the Schedules to this Act which shall serve as guides so far as the particular case will allow. Forms. 32-3 V. c. 31(D) Rev. Stat. c. 75 40 V. c. 18, s. 36.

Information  
may be  
amended.

**76.** In the event of any variance between the information and evidence adduced in support thereof, the Justice, Justices or Police Magistrate may amend or alter such information, and may substitute for the offence charged therein, any other offence against the provisions of this Act; but if it appears that the defendant has been materially misled by such variance, the said Justice, Justices or Police Magistrate shall thereupon adjourn the hearing of the case to some future day, unless the defendant waives such adjournment. 40 V. c. 18 s. 21 (2).

Conviction not  
void for cer-  
tain defects;

**77.** No conviction or warrant enforcing the same or other process or proceeding under this Act shall be held insufficient or invalid by reason of any variance between the information or conviction, or by reason of any other defect in form or substance, provided it can be understood from such conviction, warrant, process or proceeding that the same was made for an offence against some provision of this Act, within the jurisdiction of the Justice, Justices, or Police Magistrate who made or signed the same, and provided there is evidence to prove such offence, and it can be understood from such conviction, warrant, or process, that the appropriate penalty or punishment for such offence was intended to be thereby adjudged. 40 V. c. 18, s. 23 (1).

May be  
amended

2. Upon any application to quash such conviction, or warrant enforcing the same, or other process or proceeding whether in appeal or upon *habeas corpus*, or by way of *certiorari* or otherwise, the Court or Judge to which such appeal is made or to which such application has been made upon *habeas corpus* or by way of *certiorari*, or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defect as aforesaid, and in all cases where it appears that the merits have been tried, and that the conviction, warrant, process, or proceeding is sufficient and valid under this section or otherwise, such conviction, warrant, process, or proceeding shall be affirmed, or shall not be quashed (as the case may be), and such Court or Judge may, in any case, amend the same if necessary, and any conviction, warrant, process or proceeding so affirmed or affirmed and amended, shall be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded. 40 V. c. 18, s. 23 (2).

#### EVIDENCE, &c.

License, how  
proved.

**78.** In any prosecution or proceeding under this Act, in which proof is required respecting any license, a certificate under the hand of the License Inspector of the District shall be *prima facie* proof of the existence of a license, and of the person to whom the same was granted or transferred; and the production of such certificate shall be sufficient *prima facie* evidence of the facts therein stated and of the authority of the License Inspector, without any proof of his appointment or signature. 40 V. c. 18, s. 31.

**79.** Any resolution of the Board of License Commissioners passed under the fourth and fifth sections of this Act, shall be sufficiently authenticated by being signed by the Chairman of the Board which passed the same ; and a copy of any such resolution written or printed, and certified to be a true copy by any member of such Board, shall be deemed authentic, and be received in evidence in any Court of Justice without proof of any such signature, unless it is specially pleaded or alleged that the signature to any such original regulation has been forged. How each regulation authenticated, etc. 37 V. c. 32, s. 49.

**80.** Any house, shop, room, or other place in which are proved to exist a bar, counter, beer pumps, kegs, jars, decanters, tumblers, glasses, or any other appliances or preparations similar to those usually found in taverns and shops where spirituous or fermented liquors are accustomed to be sold or trafficked in, shall be deemed to be a place in which spirituous, fermented or other manufactured liquors are kept or had for the purpose of being sold, bartered or traded in, under the fortieth section of this Act, unless the contrary is proved by the defendant in any prosecution ; and the occupant of such house, shop, room or other place shall be taken conclusively to be the person who has, or keeps therein, such liquors for sale, barter or traffic therein. Places in which the sale of liquors is presumed. 37 V. c. 32, s. 50 ; 39 V. c. 26, s. 22. Presumption as to occupant

**81.** In proving the sale or disposal, gratuitous or otherwise, or consumption of liquor for the purpose of any proceeding relative to any offence under this Act, it shall not be necessary to show that any money actually passed, or any liquor was actually consumed, if the Justices, Police Magistrate, or Court hearing the case is or are satisfied that a transaction in the nature of a sale or other disposal actually took place, or that any consumption of liquor was about to take place ; and proof of consumption or intended consumption of liquor on premises under license or in respect to which a license is required under this Act, by some person other than the occupier of said premises, shall be evidence that such liquor was sold to the person consuming or being about to consume or carrying away the same, as against the holder of the license or the occupant of the said premises. Evidence as to sale, etc., of liquor. 39 V. c. 26, s. 21.

**82.** In Cities, Towns and incorporated Villages, in all cases where any person or persons other than members of the family or household of the keeper of a licensed tavern or saloon, is or are found frequenting or present, or gas or other light is seen burning in the bar-room of such tavern or saloon, where liquor is trafficked in, at any time during which the sale or other disposal of liquors is prohibited by any provision of this Act, any such fact, when proved, shall be deemed and taken as *prima facie* evidence that a sale or other disposal of liquors by the keeper of such tavern or other place has taken place contrary to the provisions of the forty-third section of this Act ; and Persons or lights in bar-rooms at prohibited times, when so proved, to be *prima facie* evidence of illegal sale of liquor.



such keeper may thereupon be convicted of an offence against said section, and shall, upon conviction, be subject to the punishment prescribed in and by the fifty-second section of this Act. 37 V. c. 32, s. 51.

**Liability of  
occupants.**

**83.** The occupant of any house, shop, room or other place in which any sale, barter or traffic of spirituous, fermented or manufactured liquors, or any matter, act or thing in contravention of any of the provisions of this Act, has taken place, shall be personally liable to the penalty and punishments prescribed in the fifty-first and fifty-second sections of this Act, as the case may be, notwithstanding such sale, barter or traffic be made by some other person, who cannot be proved to have so acted under or by the directions of such occupant, and proof of the fact of such sale, barter or traffic, or other act, matter or thing, by any person in the employ of such occupant, or who is suffered to be or remain in or upon the premises of such occupant, or to act in any way for such occupant, shall be conclusive evidence that such sale, barter or traffic, or other act, matter or thing, took place with the authority and by the direction of such occupant. 37 V. c. 32, s. 52; 40 V. c. 18. s. 25.

**In prosecutions for sale  
without  
license certain  
presumptions  
sufficient to  
put defendant  
on his defence,  
and convict  
him in default  
of rebuttal.**

**84.** In any prosecution under this Act for the sale or other disposal of liquor without the license required by law, it shall not be necessary that any witness should depose directly to the precise description of the liquor sold or bartered or the precise consideration therefor, or to the fact of the sale or other disposal having taken place with his participation or to his own personal and certain knowledge, but the Justices or Police Magistrate trying the case, so soon as it appear to them or him that the circumstances in evidence sufficiently establish the infraction of law complained of, shall put the defendant on his defence, and in default of his rebuttal of such evidence, shall convict him accordingly. 27-8 V. c. 18, s. 39 (1).

**Proof of being  
licensed to rest  
on the defend-  
ant.**

**85.** In any prosecution under this Act, whenever it appears that the defendant has done any act or been guilty of any omission in respect of which, were he not duly licensed, he would be liable to some penalty under this Act, it shall be incumbent upon the defendant to prove that he is duly licensed, and that he did the said act lawfully.

**Evidence of  
license.**

2. The production of a license which on its face purports to be duly issued, and which, were it duly issued, would be a lawful authority to the defendant for such act or omission, shall be *prima facie* evidence that the defendant is so entitled, and in all cases the signature to and upon any instrument purporting to be a valid license shall *prima facie* be taken to be genuine. 37 V. c. 32, s. 53.

*Witnesses.*

**86.** In any prosecution under this Act the Justice, Justices, or Police Magistrate trying the case may summon any person represented to him or them as a material witness in relation thereto; and if such person refuses or neglects to attend pursuant to such summons, the Justice, Justices, or Police Magistrate may issue his or their warrant for the arrest of such person; and he shall thereupon be brought before the Justice, Justices, or Police Magistrate, and if he refuses to be sworn or to affirm, or to answer any question touching the case, he may be committed to the Common Gaol of the County, there to remain until he consents to be sworn or to affirm, and to answer. 27-8 c. 18, s. 39 (2).

Witnesses summoned and not appearing, may be brought up by warrant.

**87.** Any person summoned as a party to, or as a witness in any proceeding under this Act, may, by the summons, be required to produce, at the time and place appointed for his attendance, all books and papers, accounts, deeds and other documents in his possession, custody or control, relating to any matter connected with the said proceeding, saving all just exceptions to such production: and shall be liable to the same penalties for non-production of such books, papers or documents, as he would incur by refusal or neglect to attend, pursuant to such summons, or to be sworn or to answer any question touching the case. 40 V. c. 18, s. 32.

Production of books, etc., may be ordered.

## CIVIL REMEDIES AGAINST TAVERN KEEPERS, &amp;C.

**88.** Wherever in any inn, tavern, or other house or place of public entertainment, or wherein refreshments are sold, or in any place wherein intoxicating liquor of any kind is sold, whether legally or illegally, any person has drunk to excess of intoxicating liquor of any kind, therein furnished to him, and while in a state of intoxication from such drinking has come to his death by suicide, or drowning, or perishing from cold, or other accident caused by such intoxication, the keeper of such inn, tavern, or other house or place of public entertainment, or wherein refreshments are sold, or of such place wherein intoxicating liquor is sold, and also any other person or persons who for him or in his employ delivered to such person the liquor whereby such intoxication was caused, shall be jointly and severally liable to an action as for personal wrong, (if brought within three months thereafter, but not otherwise,) by the legal representatives of the deceased person; and such legal representatives may bring either a joint and several action against them or a separate action against either or any of them, and by such action or actions may recover such sum not less than one hundred nor more than one thousand dollars, in the aggregate of any such actions, as may therein be assessed by the Court or jury as damages. 27-8 V. c. 18, s. 40.

Liability of innkeepers or persons in their employ, etc., who give liquor to persons who become intoxicated and commit suicide or perish from cold, etc.

Form of action against them.

Persons who furnish the liquor liable for assault committed by a person thereby intoxicated.

**89** If a person in a state of intoxication assaults any person, or injures any property, the person who furnished him with the liquor which occasioned his intoxication,—if such furnishing was in violation of this Act, or otherwise in violation of law,—shall be jointly and severally liable to the same action by the party injured as the person intoxicated may be liable to; and such party injured, or his legal representatives, may bring either a joint and several action against the person intoxicated and the person or persons who furnished such liquor, or a separate action against either or any of them. 27-8 V. c. 18, s. 41.

Husband, wife, &c., may notify sellers of liquor not to furnish it to any person addicted to drinking.

**90.** The husband, wife, parent, brother, sister, guardian, or employer of any person who has the habit of drinking intoxicating liquor to excess—or the parent, brother or sister, of the husband or wife of such person—or the guardian of any child or children of such person—may give notice in writing, signed by him or her, to any person licensed to sell, or who sells or is reputed to sell, intoxicating liquor of any kind, not to deliver intoxicating liquor to the person having such habit; and if the person so notified, at any time within twelve months after such notice, either himself, or by his clerk, servant or agent, otherwise than in terms of a special requisition for medicinal purposes, signed by a licensed medical practitioner, delivers, or in or from any building, booth or place occupied by him, and wherein or wherefrom any such liquor is sold, suffers to be delivered, any such liquor to the person having such habit, the person giving the notice may, in an action as for personal wrong (if brought within six months thereafter, but not otherwise) recover from the person notified such sum, not less than twenty nor more than five hundred dollars, as may be assessed by the Court or jury as damages; and any married woman may bring such action in her own name, without authorization by her husband; and all damages recovered by her shall in that case go to her separate use: and in case of the death of either party, the action and right of action given by this section shall survive to or against his legal representatives. 27-8 V. c. 18, s. 42.

Liability of persons so notified.

Married woman may bring action for damages.

Money paid for liquor sold contrary to this Act may not be recovered.

**91.** Any payment or compensation for liquor furnished in contravention of this Act, or otherwise in violation of law, whether made in money or securities for money, or in labour or property of any kind, shall be held to have been received without any consideration, and against law, equity, and good conscience—and the amount or value thereof may be recovered from the receiver by the party who made the same; and all sales, transfers, conveyances, liens and securities of every kind, in whole or part, made, granted or given, for or on account of liquor so furnished in contravention of this Act, or otherwise in violation of law, shall be wholly null and void, save only as regards subsequent purchasers or assignees for value, without notice; and no action of any kind shall be maintained, either in whole or in part, for or on account of any liquor so fur-

Securities, &c. for payment to be void.



nished in contravention of this Act, or otherwise in violation of law. 27-8 V. c. 18, s. 43.

#### OFFICERS TO ENFORCE THE LAW, THEIR DUTIES AND POWERS.

**92.** The Lieutenant-Governor may appoint one or more Provincial officers whose duty it shall be to enforce the provisions of this Act, and especially for the prevention of traffic in liquor by unlicensed houses. 37 V. c. 32, s. 54.

Lieutenant-Governor may appoint officers to enforce this Act.

**93.** The License Commissioners, with the sanction of the Lieutenant-Governor in Council, may appoint one or more officers to enforce the provisions of this Act, and especially for the prevention of traffic in liquor by unlicensed houses, and shall fix the security to be given by such officers for the efficient discharge of the duties of their office, and every such officer or officers shall, within the License District for which he is appointed, possess and discharge all the powers and duties of Provincial officers appointed under the next preceding section. 39 V. c. 26, s. 23.

Appointment of officers by License Commissioners.

**94.** Every officer so appointed under this Act, every policeman, or constable, or Inspector of Licenses, shall be deemed to be within the provisions of this Act; and when any information is given to any such officer, policeman, constable or Inspector that there is cause to suspect that some person is violating any of the provisions of this Act, it shall be his duty to make diligent inquiry into the truth of such information, and enter complaint of such violation before the proper Court, without communicating the name of the person giving such information; and it shall be the duty of the Crown Attorney, within the County in which the offence is committed, to attend to the prosecution of all cases committed to him by an Inspector or officer appointed under this Act by the Lieutenant-Governor. 37 V. c. 32, s. 55.

Officers within this Act.

Duties of officers and County Attorneys on receiving information of infringement of this Act.

**95.** Any officer, policeman or constable, or Inspector of Licenses may, for the purpose of preventing or detecting the violation of any of the provisions of this Act which it is his duty to enforce, at any time enter into any and every part of any inn, tavern, or other house or place of public entertainment, shop, warehouse or other place wherein refreshments or liquors are sold, or reputed to be sold, whether under license or not, and may make searches in every part thereof, and of the premises connected therewith, as he may think necessary for the purpose aforesaid. 40 V. c. 18, s. 26.

Right of search granted.

**96.** Every person being therein, or having charge thereof, who refuses or fails to admit such officer, policeman, or constable, or Inspector demanding to enter in pursuance of this section in the execution of his duty, or who obstructs or at-

Penalty for refusing to admit officer.

tempts to obstruct the entry of such officer, policeman, constable, or Inspector, or any such searches as aforesaid, shall be liable to the penalties and punishments prescribed by section fifty-one of this Act. 40 V. c. 18, s. 26.

Search warrant may be granted.

**96.** Any Justice of the Peace or Police Magistrate, if satisfied by information on the oath of any such officer, policeman, constable or Inspector, that there is reasonable ground for belief that any spirituous or fermented liquor is being kept for sale or disposal contrary to the provisions of this Act in any unlicensed house or place within the jurisdiction of the Justice or Magistrate, may, in his discretion, grant a warrant under his hand, by virtue whereof it shall be lawful for the person named in such warrant at any time or times within ten days from the date thereof to enter, and, if need be, by force, the place named in the warrant, and every part thereof, or of the premises connected therewith, and examine the same and search for liquor therein; and for this purpose may, with such assistance as he deems expedient, break open any door, lock, or fastening of such premises, or any part thereof, or of any closet, cupboard, box or other article likely to contain any such liquor; and in the event of any liquor being so found unlawfully kept on the said premises, the occupant thereof shall, until the contrary is proved, be deemed to have kept such liquor for the purpose of sale contrary to the provisions of the fortieth section of this Act. 40 V. c. 18, s. 26.

Unlawful keeping of liquor to be evidence of illegal dealings therein.

Duty of constables and others to prosecute offenders.

**97.** It shall be the duty of every officer, policeman, constable, or Inspector of Licenses in each Municipality, to see that the several provisions of this Act are duly observed, and to proceed by information and otherwise prosecute for the punishment of any offence against the provisions of this Act; and in case of wilful neglect or default in so doing in any case, such officer, policeman, constable or Inspector shall incur a penalty of ten dollars for each and every such neglect and default. 37 V. c. 32, s. 57.

Penalty for neglect.

#### UNORGANIZED DISTRICTS.

This Act to apply to the territorial and unorganized districts.

**98.** Subject to the provisions as hereinafter contained, the preceding provisions of this Act shall apply to all portions of Judicial, Territorial and other unorganized Districts of this Province; and in any prosecution or proceeding thereunder the Stipendiary Magistrate in any such District shall possess and exercise all the powers and jurisdictions of the Police Magistrate, or other convicting Justice or Justices of the Peace, under this Act; and the Lock-up of such District shall be deemed to be a Gaol for the purpose of imprisonment under this Act; and any money penalty imposed and recovered shall, where the Inspector is not the prosecutor, or the offence was not committed within any Municipality, be paid to the Treasurer of Ontario; and the provisions of this Act, applicable to Township

Municipalities, shall apply to all Municipalities organized under *The Act respecting the Establishment of Municipal Institutions in the Districts of Algoma, Muskoka, Parry Sound, Nipissing and Thunder Bay.* 37 V. c. 32, s. 59; 39 V. c. 26 s. 25 last clause. Rev. Stat c. 175.

**99.** The Lieutenant-Governor in Council may declare any portion of a Judicial or Territorial District which is not within the jurisdiction of a municipal County, a License District, for the purposes of this Act, and the Lieutenant-Governor may appoint therefor a Board of License Commissioners and one or more Inspectors. 40 V. c. 18, ss. 1 & 34 (1). License districts in Judicial or Territorial Districts.

**100.** In any License District so formed an appeal shall lie from any decision of the Stipendiary Magistrate in any prosecution or proceeding under this Act, to the Judge of such District, or to any County Judge to whom an appeal lies in other matters in such District. 40 V. c. 18, s. 34 (2). Appeal from Stipendiary Magistrates.

**101.** In such portions of Judicial or Territorial Districts as are not within the jurisdiction of any municipal County, and have not been included in any License District, under the provisions of section ninety-nine, the Lieutenant-Governor may appoint one or more persons as Commissioners and Inspectors respectively for the granting of such number of tavern and shop licenses to such persons, for such places and periods, and upon such conditions as may be prescribed by Order in Council, such licenses to take effect from the first day of June in each year. Appointment of Commissioners, &c., in Districts not within the jurisdiction of municipal councils or a licensed district.

2. For any such tavern or shop license, the duty payable shall be the sum of sixty dollars. 39 V. c. 26, s. 25. Duties payable.

**102.** The licenses to be issued for the sale of spirituous, fermented or other manufactured liquors, in any place not within a License District, may be issued on such conditions and under such regulations as the Lieutenant-Governor in Council from time to time directs, subject to the provisions of this Act; and any bond which the Lieutenant-Governor in Council may direct to be taken from any person obtaining a license under this Act for any such place, conditioned for the observance of the law and of all regulations to be made under this section, shall be valid, and may be enforced according to its tenor. 37 V. c. 32, s. 60. Issue of licenses for places not within license district.

**103.** Any Municipal Corporation within any Judicial or Territorial District shall have the like authority in respect of taverns and shops therein, and the licenses therefor, as the like Corporations in municipal Counties possess under the provisions of this Act. 39 V. c. 26, s. 25. Powers of municipal corporations.



## MUNICIPALITIES UNDER THE TEMPERANCE ACTS.

27-8 V. c. 78,  
and Rev. Stat.  
c. 182, not  
affected by  
this Act.

**104.** Nothing in the foregoing provisions of this Act shall be construed to affect or impair any of the provisions of "*The Temperance Act of 1864*" of the late Province of Canada, or "*The Temperance Act of Ontario*;" and no tavern or shop license shall be issued or take effect within any County, City, Town, incorporated Village, or Township in Ontario within which any by-law for prohibiting the sale of liquor under the said Acts is in force. 39 V. c. 26, s. 27 (1)

Commissioners  
and Inspectors  
may be ap-  
pointed where  
said Acts  
in force.

**105.** The Lieutenant-Governor in Council may, notwithstanding that any such by-law affects the whole of any County, nominate a Board of Commissioners of the number, and for the period mentioned in the third section of this Act, and also an Inspector; and the said Board and Inspector shall have, discharge and exercise all such powers and duties respectively for preventing the sale, traffic or disposal of liquor contrary to the said Acts or this Act as they respectively have or should perform under this Act. 39 V. c. 26, s. 27 (2).

Duties of in  
such case.

27-8 V. c. 18 ;

Rev Stat.  
c. 182.

**106.** The Board of Commissioners and the Inspector so appointed under this Act shall exercise and discharge all their respective powers and duties for the enforcement of the provisions of "*The Temperance Act of 1864*" and "*The Temperance Act of Ontario*," as well as of this Act, so far as the same apply, within the limits of any County, City, incorporated Village or Township in which any by-law under the said Acts is in force. 39 V. c. 26, s. 27 (3).

Wholesale  
licenses.

27-8 V. c. 18 ;  
Rev Stat.  
182.

**107.** A wholesale license to be obtained under and subject to the provisions of this Act, shall be necessary, in order to authorize or make lawful any sale of liquor in the quantities allowed under the provisions of "*The Temperance Act of 1864*" and "*The Temperance Act of Ontario*." 40 V. c. 18, s. 30 (2). See also Rev. Stat. c. 182, s. 13 (4).

Prosecutions  
where Tem-  
perance Acts  
in force.

**108.** The sale of liquor without license in any Municipality where "*The Temperance Act of 1864*" and "*The Temperance Act of Ontario*" are in force shall nevertheless be a contravention of sections thirty-nine and forty of this Act, and the several provisions of this Act shall have full force and effect in every such Municipality except in so far as such provisions relate to granting licenses for the sale of liquor by retail. 40 V. c. 18, s. 30 (1).

Expenses in  
each case.

**109.** All expenses incurred in carrying the provisions of the last five preceding sections into effect shall be borne and paid in the proportion of one-third by the Province out of the Consolidated Revenue Fund, and two-thirds by the Municipality

within which any such by-law is in force, in cases where there is no License Fund under this Act ; and the proportion of such expenses payable by the Municipality shall become due and payable in one month after the same has been audited by the Provincial Treasurer, and after the Board of License Commissioners has requested payment of the same by notice in writing to the Clerk of the Municipality. 39 V. c. 26, s. 27 (4) ; 40 V. c. 18, s. 35.

SCHEDULE "A."

(Section 22.)

FORM OF BOND BY APPLICANT FOR A TAVERN LICENSE.

Know all men by these presents, that we, T. U., of \_\_\_\_\_, V. W., of \_\_\_\_\_ and X. Y., of \_\_\_\_\_, are held and firmly bound unto Her Majesty Queen Victoria, Her Heirs and Successors, in the penal sum of four hundred dollars of good and lawful money of Canada—that is to say, the said T. U., in the sum of two hundred dollars, the said V. W., in the sum of one hundred dollars, and the said X. Y., in the sum of one hundred dollars of like good and lawful money, for payment of which well and truly to be made, we bind ourselves and each of us, our heirs, executors and administrators, firmly by these presents.

Whereas the above bounden T. U. is about to obtain a license to keep a tavern or house of entertainment in the \_\_\_\_\_ of \_\_\_\_\_ ; the condition of this obligation is such, that if the said T. U. pays all fines and penalties which he may be condemned to pay for any offence against any statute or other provision having the force of law, now or hereafter to be in force, relative to any tavern or house of public entertainment, and does, performs and observes all the requirements thereof, and conforms to all rules and regulations that are or may be established by competent authority in such behalf ; then this obligation shall be null and void, otherwise to remain in full force, virtue and effect.

In witness thereof, we have signed these presents with our hands, and sealed them with our seals, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. one thousand eight hundred and \_\_\_\_\_

T. U. [L. S.]  
V. W. [L. S.]  
X. Y. [L. S.]

Signed, sealed and delivered }  
in the presence of us }

## SCHEDULE "B."

(Section 23)

## FORM OF BOND BY APPLICANT FOR A SHOP LICENSE.

Know all men by these presents, that we, T. U., of V. W. of  
 , and X. Y., of , are held and firmly bound unto Her  
 Majesty Queen Victoria, Her Heirs and Successors, in the penal sum of  
 four hundred dollars of good and lawful money of Canada—that is to  
 say, the said T. U. in the sum of two hundred dollars, the said  
 V. W. in the sum of one hundred dollars, and the said X. Y. in the sum of  
 one hundred dollars of like good and lawful money, for payment of which  
 well and truly to be made, we bind ourselves and each of us, our heirs,  
 executors and administrators, firmly by these presents.

Whereas the above bounden T. U. is about to obtain a license to keep a  
 shop wherein liquor may be sold by retail in the of ; the  
 condition of this obligation is such, that if the said T. U. pays all fines and  
 penalties which he may be condemned to pay for any offence against any  
 statute or other provision having the force of law, now or hereafter to be  
 in force, relative to any shop wherein liquor may be sold by retail, and  
 does, performs and observes all the requirements thereof, and conforms to  
 all rules and regulations that are or may be established by competent  
 authority in such behalf; then this obligation shall be null and void,  
 otherwise to remain in full force, virtue and effect.

In witness whereof, we have signed these presents with our hands, and  
 sealed them with our seals, this day of , A. D. one thousand  
 eight hundred and

T. U. [L. S.]  
 V. W. [L. S.]  
 X. Y. [L. S.]

Signed, sealed and delivered }  
 in the presence of us }

30 V. c. 26, Sched. B.

## SCHEDULE "C."

(Section 65 and 75.)

## GENERAL FORM OF INFORMATION.

ONTARIO, } THE INFORMATION of A. B. of the Township of York,  
 County of York, } in the County of York, License Inspector, laid before  
 To Wit: } me C. D., Police Magistrate, in and for the City of  
 Toronto [or one of Her Majesty's Justices of the Peace, in and for the  
 County of York], the day of in the year of our Lord, one  
 thousand eight hundred and

The said informant says, he is informed and believes that X. Y. on  
 the day of in the year of our Lord, one  
 thousand eight hundred and , at the Township of York, in  
 the County of York, unlawfully did sell liquor without the license there-  
 for by law required [or as the case may be—See forms in Schedule D].

A. B.

Laid and signed before me the  
 day and year, and at the place {  
 first above mentioned. {  
 C. D.,  
 P. M. or J. P.



## SCHEDULE D.

(Section 75.)

## FORMS FOR DESCRIBING OFFENCES.

1. *Neglecting to keep license exposed.* (Section 37.)

"That X. Y. having a license by wholesale [or a shop, or a tavern, or a vessel license] on \_\_\_\_\_ at \_\_\_\_\_ unlawfully and wilfully (or negligently) omitted to expose the said license in his warehouse [or shop, or in the bar-room of his tavern, or in the bar-saloon, or bar-cabin of his vessel,] as the case may be].

2. *Neglecting to exhibit notice of license.* (Section 38.)

"That X. Y. being the keeper of a tavern [or inn or house or place of public entertainment] in respect of which a tavern license has duly issued and is in force on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did not exhibit over the door of such tavern [or inn, &c.,] in large letters the words, 'Licensed to sell wine, beer, and other spirituous or fermented liquors,' as required by 'The Liquor License Act.'"

3. *Sale without license.* (Section 39.)

"That X. Y., on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_ at \_\_\_\_\_ in the County of \_\_\_\_\_ unlawfully did sell liquor without the license therefor by law required."

4. *Keeping liquor without license.* (Section 40.)

"That X. Y. on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did keep liquor for the purpose of sale, barter and traffic therein, without the license therefor by law required."

5. *Sale of liquor on licensed premises during prohibited hours.* (Sections 43 and 52.)

"That X. Y. on \_\_\_\_\_ at \_\_\_\_\_ in his premises [or on, or out of, or from, his premises] being a place where liquor may be sold, unlawfully did sell [or dispose of] liquor during the time prohibited by "The Liquor License Act" (or by by-law of the Municipal Council of \_\_\_\_\_ or of the License Commissioners for the District of \_\_\_\_\_ or as the case may be,) for the sale of the same, without any requisition for medical purposes as required by said Act being produced by the vendee or his agent."

6. *Allowing liquor to be drunk on licensed premises during prohibited hours.* (Sections 43 and 52.)

"That X. Y. on \_\_\_\_\_ at \_\_\_\_\_ in his premises, being a place where liquor may be [or is] sold, by retail [or wholesale] unlawfully did allow [or permit] liquor to be drunk in such place during the time prohibited by "The Liquor License Act" for the sale of the same by a person other than the occupant, or some member of his family, or a lodger in his house."

7. *Sale of less than three half-pints under shop license.* (Section 2 (3).)

"That X. Y. having a shop license on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did sell liquor in less quantity than three half-pints."

8. *Sale under wholesale license in less than wholesale quantities.* (See-2 (4), and 41.)

"That X. Y. having a license to sell by wholesale on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did sell liquor in less quantity than five gallons [or, than one dozen bottles of three half-pints each, or than two dozen bottles of three-fourths of a pint each]."

9. *Allowing liquor to be consumed in shop.* (Section 45.)

"That X. Y. having a shop license on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did allow liquor sold by him (or in his possession), and for the sale of which a license is required, to be consumed within his shop [or within the building of which his shop forms part, or, within a building which communicates by an entrance with his shop], by a purchaser of such liquor [or, by a person not usually resident within the building of which such shop forms a part]."

10. *Allowing liquor to be consumed on premises under wholesale license.* (Section 46.)

"That X. Y. having a license by wholesale, on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did allow liquor sold by him [or in his possession for sale] and for the sale of which such license is required, to be consumed within his warehouse [or shop, or within a building which forms part of (or is appurtenant to or which communicates by an entrance with a warehouse or shop, or premises) wherein an article to be sold (or disposed of) under such license, is sold by retail (or wherein there is kept a broken package of an article for sale under such license)]."

11. *Illegal sale by druggists.* (Section 42.)

"That X. Y. being a chemist [or druggist] on \_\_\_\_\_ at \_\_\_\_\_ did unlawfully sell liquor for other than strictly medicinal purposes [or sell liquor in packages of more than twelve ounces at one time without a certificate from any registered medical practitioner, or sell liquor without recording the same], as required by "The Liquor License Act."

12. *Illegal sale under vessel license.* (Section 44.)

"That X. Y. being authorized to sell liquor on a vessel called the 'Spartan,' on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did sell [or dispose of] liquor to be consumed by a person other than a passenger on such vessel while in port [or unlawfully did allow liquor to be consumed on such vessel during the time prohibited by "The Liquor License Act" for the sale of the same without any requisition for medical purposes, as required by said Act]."

13. *Keeping a disorderly house.* (Section 53.)

"That X. Y. being the keeper of a tavern [or ale-house or beer-house, or house of public entertainment], situate in the City [or Town, or Village, or Township], of \_\_\_\_\_ in the County of \_\_\_\_\_ on \_\_\_\_\_ in his said tavern [or house] unlawfully did sanction [or allow] gambling, [or riotous, or disorderly conduct] in his said tavern [or house]."

14. *Harbouring constables on duty.* (Section 54.)

"That X. Y. being licensed to sell liquor at \_\_\_\_\_ on \_\_\_\_\_ unlawfully and knowingly did harbour [or entertain or suffer to abide and remain on his premises] O. P., a constable belonging to a police force, during a part of the time appointed for his being on duty, and not for the purpose of quelling a disturbance or restoring order, or executing his duty."

15. *Compromising or compounding a prosecution.* (Section 55.)

That X. Y. having violated a provision of "*The Liquor License Act*," on at unlawfully did compromise [or compound, or settle, or offer, or attempt to compromise, compound or settle], the offence with A. B., with the view of preventing any complaint being made in respect thereof [or with the view of getting rid of or of stopping, or of having the complaint made in respect thereof dismissed, as the case may be]."

16. *Being concerned in compromising a prosecution.* (Section 56.)

"That X. Y. on at unlawfully was concerned in [or a party to] a compromise [or a composition, or a settlement] of an offence committed by O. P., against a provision of "*The Liquor License Act*."

17. *Tampering with a witness.* (Section 57.)

"That X. Y., on a certain prosecution under "*The Liquor License Act*," on at unlawfully did tamper with O. P., a witness in such prosecution before [or after] he was summoned [or appeared] as such witness on a trial [or proceeding] under the said Act, [or unlawfully did induce, or attempt to induce O. P., a witness in such prosecution, to absent himself, or to swear falsely]."

18. *Refusing to admit policeman* (Section 95.)

"That X. Y. on the at being in (or having charge of) the premises of O. P., being a place where liquor is sold [or reputed to be sold], unlawfully did refuse [or fail] to admit [or did obstruct or attempt to obstruct] E. F., an officer demanding to enter in the execution of his duty [or did obstruct or attempt to obstruct E. F., an officer making searches in said premises, and in the premises connected with such place]."

19. *Officer refusing to prosecute.* (Sections 94 and 97.)

"That X. Y. being a police officer [or constable, or Inspector of Licenses] in and for the Township of York, in the County of York, knowing that O. P. had on at committed an offence against a provision of "*The Liquor License Act*," unlawfully and wilfully did and still does neglect to prosecute the said O. P., for his said offence."

## SCHEDULE "E."

(Section 75.)

## FORM OF INFORMATION FOR SECOND, THIRD, OR FOURTH OFFENCE.

ONTARIO, } THE INFORMATION of A. B., of &c., License Inspector,  
County of York, } laid before me C. D., Police Magistrate in and for  
To Wit: } the City of Toronto [or one of Her Majesty's Justices  
of the Peace in and for the County of York], the day of  
in the year of our Lord one thousand eight hundred  
and

The said Informant says he is informed and believes that X. Y. on at [describe last offence].

And further that the said X. Y. was previously, to wit: on the 15th day of December, A.D. 1876, at the City of Toronto, before C. D., Police Magistrate in and for the City of Toronto [or at the Township of York, in the County of York, before E. F. and G. H., two of Her Majesty's Justices of the Peace for the County of York], duly convicted of having on the 30th day of November, 1876, at the Village of Yorkville, in the County of York, unlawfully sold liquor without the license therefor required by law [or as the case may be]



And further, that the said X. Y. was previously, to wit: on the 28th day of November, A.D. 1876, at the Township of Vaughan, in the County of York, before, &c. [*as in preceding paragraph*], again duly convicted of having, on the 10th day of November, A.D. 1876, at the Township of Etobicoke, in the County of York, having a shop license, unlawfully allowed liquor to be consumed within a building which communicates by an entrance with his shop, by a person not usually resident within the building of which such shop forms a part [*or as the case may be*].

And further, that the said X. Y. was previously, to wit: on the 30th day of October, A.D. 1876, at the Village of Newmarket, in the County of York, before, &c. (*see above*), again duly convicted of having, on the 25th day of September, A.D. 1876, at the Village of Yorkville, in the County of York (being in charge of the premises of O. P., a place where liquor was reputed to be sold), unlawfully failed to admit E. F., an officer demanding to enter in the execution of his duty.

And the Informant says the offence hereinbefore firstly charged against the said X. Y., is his fourth offence against "*The Liquor License Act.*"

A. B.

Laid and signed before me the day }  
and year, and at the place first }  
above mentioned,

C. D., }  
J. P.

### SCHEDULE "F."

(Section 75.)

SUMMONS TO WITNESS.

ONTARIO, }  
County of York, } To J. K., of the City of Toronto, in the County of York,  
To Wit: }

Whereas, information has been laid before me, C. D., one of Her Majesty's Justices of the Peace in and for the County of York, (or Police Magistrate for the City of Toronto,) that X. Y., being a druggist, on the 10th day of January, A.D. 187 , at the Township of Vaughan, in the County of York, unlawfully did sell liquor for other than strictly medicinal purposes, and it has been made to appear to me that you are likely to give material evidence on behalf of the prosecutor in this behalf.

These are to require you, under pain of imprisonment in the Common Gaol, personally to be and appear on Tuesday, the sixteenth day of January, A.D. 187 , at ten o'clock in the forenoon, at the Town Hall, in the Village of Richmond Hill, before me or such Justice or Justices of the Peace as may then be there, to testify what you shall know in the premises [and also to bring with you and there and then to produce all and every invoices, day books, cash books, or ledgers and receipts, promissory notes, or other security relating to the purchase or sale of liquor by the said X. Y., and all other books and papers, accounts, deeds, and other documents in your possession, custody or control, relating to any matter connected with the said prosecution].

Given under my hand and seal this 12th day of January, A.D. 187 , at the Village of Richmond Hill, in the County of York.

C. D.,

J. P. (L.S.)

### SCHEDULE "G."

(Section 75.)

FORM OF CONVICTION FOR FIRST OFFENCE.

ONTARIO, }  
County of York, } BE IT REMEMBERED that on the sixth day of January,  
To Wit: } in the year of our Lord one thousand eight hundred  
and seventy-seven, at the City of Toronto, in the  
said County of York, X. Y. is convicted before me, C. D., Police Magis-

trate in for the City of Toronto (or before us, E. F. and G. H., two of Her Majesty's Justices of the Peace, in and for the said County), for that he the said X. Y., on the second day of January, in the year of our Lord one thousand eight hundred and seventy-seven, at the Township of York, in the said County, in his premises, being a place where liquor may be sold, unlawfully did sell liquor during the time prohibited by "*The Liquor License Act*" for the sale of the same, without any requisition for medicinal purposes as required by said Act, being produced by the vendee or his agent (or as the case may be), A. B. being the informant and I (or we) adjudge the said X. Y., for his said offence to forfeit and pay the sum of twenty dollars, to be paid and applied according to law, and also to pay to the said A. B. the sum of six dollars for his costs in this behalf, and if the said several sums be not paid forthwith, then\* I (or we) order the said sums to be levied by distress and sale of the goods and chattels of the said X. Y., and in default of sufficient distress in that behalf\* [or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks\*\* say "inasmuch as it has now been made to appear to me (or us) that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family," or "that the said X. Y. has no goods or chattels whereon to levy the said several sums by distress"], I (or we) adjudge the said X. Y. to be imprisoned in the Common Gaol for the County of York, at Toronto, in the said County, and there to be kept for the space of *fifteen days*, unless the said sums and the costs and charges of conveying the said X. Y. to the said Common Gaol, shall be sooner paid.

Given under my hand and seal [or our hands and seals] the day and year first above mentioned, at the City of Toronto, in the County aforesaid.

C.D., (L.S.)  
*Police Magistrate,*  
 or E.F.  
 J.P. (L.S.)  
 G.H.,  
 J.P. (L.S.)

## SCHEDULE "H."

(Section 75.)

### FORM OF CONVICTION FOR A THIRD OFFENCE.

ONTARIO, }  
 County of York, } BE IT REMEMBERED that on the twenty-second day of  
 To wit: } January, in the year of our Lord one thousand eight  
 the said County, X. Y. is convicted before the undersigned C. D., Police }  
 Magistrate in and for the City of Toronto, in the said County [or C. D. }  
 and E. F., two of Her Majesty's Justices of the Peace in and for the said }  
 County], for that he, the said X. Y., on the thirtieth day of December, in }  
 the year of our Lord one thousand eight hundred and seventy-six, at the }  
 City of Toronto [or Township of Scarborough], in said County (as the case may }  
 be), having violated a provision of "*The Liquor License Act*," unlawfully }  
 did attempt to settle the offence with A. B., with the view of having the }  
 complaint made in respect thereof dismissed. And it appearing to me [or }  
 us] that the said X. Y. was previously, to wit: on the 15th day of Decem- }  
 ber, A.D. 1876, at the City of Toronto, before, &c., duly convicted of }  
 having, on the 30th day of November, A.D. 1876, at the Village of York- }  
 ville, unlawfully sold liquor without the license therefor by law required. }  
 And it also appearing to me [or us] that the said X. Y. was previously, to }  
 wit, on the 28th day of November, A.D. 1876, at the Township of }  
 Vaughan, before &c., (see above) again duly convicted of having, on the }  
 2nd day of November, A.D. 1876, at the Village of Markham (being the }  
 keeper of a tavern, situate in the said Village of Markham), unlawfully }  
 allowed gambling in his said tavern (or as the case may be).

I [or we], adjudge his offence of said X. Y. heretofore firstly mentioned, to be his third offence against "*The Liquor License Act*," (A. B. being the informant) and I [or we], adjudged the said X. Y. for his said third offence to be imprisoned in the Common Gaol of the said County of York, at Toronto, in the said County of York, there to be kept at hard labour for the space of three calendar months (or as the case may be).

Given under my hand and seal [or our hands and seals] the day and year first above mentioned, at Toronto, in the County of York.

C. D.	(L. S.)
or C. D.	(L. S.)
E. L.	(L. S.)

## SCHEDULE "I."

(Section 75.)

### WARRANT OF COMMITMENT FOR FIRST OFFENCE WHERE A PENALTY IS IMPOSED.

ONTARIO. } To ALL or any of the Constables and other Peace Officers  
County of York, } in the said County of York, and to the Keeper of  
To Wit : } the Common Gaol of the said County at Toronto, in  
the County of York.

Whereas, X. Y., late of the City of Toronto, in the said County, was on this day convicted before the undersigned, C. D., Police Magistrate in and for the City of Toronto [or C. D. and E. F., two of Her Majesty's Justices of the Peace in and for the City of Toronto or County of York, as the case may be], for that he, the said X. Y., on \_\_\_\_\_ at \_\_\_\_\_

unlawfully did sell liquor without the license therefor by law required (state offence as in the conviction), (A. B. being the informant), and it was thereby adjudged that the said X. Y., for his said offence, should forfeit and pay the sum of \_\_\_\_\_ (as in conviction), and should pay to the said A. B. the sum of \_\_\_\_\_ for his costs in that behalf.

And it was thereby further adjudged that if the said several sums should not be paid forthwith, the said X. Y. should be imprisoned in the Common Gaol of the said County at Toronto, in the said County of York, there to be kept at hard labour for the space of \_\_\_\_\_, unless the said several sums and the costs and charges of conveying the said X. Y. to the said Common Gaol should be sooner paid.

And whereas the said X. Y. has not paid the said several sums, or any part thereof, although the time for payment thereof has elapsed.

[If a distress warrant issued and was returned no goods, or not sufficient goods, say, "And whereas, afterwards on the 15th day of January, A.D. 1877, I, the said Police Magistrate (or we, the said Justices), issued a warrant to the said Constables or Peace Officers, or any of them, to levy the said several sums of \_\_\_\_\_ and \_\_\_\_\_ by distress and sale of the goods and chattels of the said X. Y. ;

"And whereas it appears to me (or us) as well, by the return of the said warrant of distress by the constable who had the execution of the same as otherwise, that the said Constable has made diligent search for the goods and chattels of the said X. Y., but that no sufficient distress whereon to levy the said sums could be found."]

[Or where the issuing of a distress warrant would be ruinous to the defendant and his family, or if it appears that he has no goods whereon to levy a distress, then, instead of the foregoing recitals of the issue and return of the distress warrant, &c., say :

"And whereas it has been made to appear to me (or us), that the issuing of a warrant by distress in this behalf would be ruinous to the said X. Y. and his family," or "that the said X. Y. has no goods or chattels whereon to levy the said sums by distress" as the case may be.]



These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said X. Y., and him safely convey to the Common Gaol aforesaid, at Toronto, in the County of York, and there deliver him to the said Keeper thereof, together with this precept.

And I (or we) do hereby command you the said Keeper of the said Common Gaol to receive the said X. Y. into your custody in the said Common Gaol, there to imprison him and keep him for the space of \_\_\_\_\_, unless the said several sums and all the costs and charges of the said distress, amounting to the sum of \_\_\_\_\_, and of the commitment and conveying of the said X. Y. to the said Common Gaol, amounting to the further sum of \_\_\_\_\_ shall be sooner paid unto you the said Keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal (or our hands and seals), this  
day of \_\_\_\_\_ A.D. 187\_\_\_\_, at Toronto, in the said County of York.

C. D.	(L.S.)
or C. D.	(L.S.)
E. F.	(L.S.)

## SCHEDULE "J."

(Section 75.)

WARRANT OF COMMITMENT FOR SECOND (or THIRD) OFFENCE, WHERE  
PUNISHMENT IS BY IMPRISONMENT ONLY.

ONTARIO, } To ALL or any of the Constables and other Peace Off-  
County of York, } cers in the said County of York, and to the Keeper  
To Wit : } of the Common Gaol of the said County, at Toronto,  
in the County of York.

Whereas X. Y., late of the \_\_\_\_\_ of \_\_\_\_\_ in the said County, was on this day convicted before the undersigned C. D., &c., (or C. D. and E. F., &c., as in preceding form). for that he, the said X. Y. on \_\_\_\_\_ at \_\_\_\_\_ (state offence with previous convictions as set forth in the conviction for the second or third offence, or as the case may be, and then proceed thus): "And it was thereby adjudged that the offence of the said X. Y., hereinbefore firstly mentioned, was his second (or third) offence against 'The Liquor License Act,' (A. B. being the informant). And it was thereby further adjudged that the said X. Y., for his said second (or third) offence, should be imprisoned in the Common Gaol of the said County of York, at Toronto, in the said County of York, and there to be kept at hard labour for the space of three calendar months.

These are therefore to command you the said Constables, or any one of you, to take the said X. Y., and him safely convey to the said Common Gaol at Toronto aforesaid, and there deliver him to the Keeper thereof, with this precept. And I (or we) do hereby command you, the said Keeper of the said Common Gaol, to receive the said X. Y. into your custody in the said Common Gaol, there to imprison him and to keep him at hard labour for the space of three calendar months.

Given under my hand and seal (or our hands and seals), this  
day of \_\_\_\_\_ A.D. 1877, at Toronto, in the said County of York.

C. D.	(L.S.)
or C. D.	(L.S.)
E. F.	(L.S.)

## CHAPTER 182.

## An Act respecting Municipal Prohibition of the Sale of Intoxicating Liquors.

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Interpretation, s. 2.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Temperance Act of Ontario*."

## INTERPRETATION, &amp;c.

2. In the construction of this Act,

"Intoxicating liquors."

"Intoxicating liquor" or "Intoxicating liquors," wherever those expressions occur in this Act, shall mean and comprehend all spirituous and malt liquors, all wines, and all combinations of liquors or drinks which are intoxicating. 27-8 V. c. 18, s. 50.

## PROVISIONS AS TO LOCAL PROHIBITION.

Every Municipal Council may prohibit the sale of intoxicating liquors.

3. The Municipal Council, of every County, City, Town, Township, or incorporated Village, besides the powers at present conferred on it by law, shall have power at any time to pass a by-law for prohibiting the sale of intoxicating liquors and the issue of licenses therefor within such County, City, Town, Township, or incorporated Village, under authority and for enforcement of this Act, and subject to the provisions and limitations hereby enacted. 27-8 V. c. 18, s. 1.

4. Such by-law shall be drawn up and passed in ordinary form, and shall not have embodied therein any other provision than the simple declaration, that the sale of intoxicating liquors and the issue of licenses therefor is by such by-law prohibited within such County, City, Town, Township, or incorporated Village, under authority and for enforcement of this Act. 27-8 V. c. 18, s. 2.

5. Any Municipal Council, when passing such by-law, may order that the same be submitted for approval to the municipal electors of the Municipality; and in that case, the same shall not take effect, unless approved. May be submitted to electors.

2. Any thirty or more duly qualified municipal electors of any Municipality, or if the by-law is for a County, then of each Municipality in the County, may at any time by a requisition in the form of Schedule A, hereto appended, or to the like effect, signed by them and delivered on their behalf to the Clerk of the Municipality, require that any by-law which the Municipal Council thereof may pass under authority and for enforcement of this Act, at any time within one year from the date of such requisition, be submitted for the like approval; and in that case such by-law shall not take effect unless approved. 27-8 V. c. 18, s. 3. Any thirty or more electors may require the by-law to be so submitted.

6. Any thirty or more duly qualified municipal electors of any City, Town, Township or incorporated Village, the Council whereof has not passed a by-law under authority and for enforcement of this Act, or after passing has repealed the same, or wherein such by-law, having been submitted for approval, or for adoption (as the case may be), to the electors, either has not been approved or adopted, or after approval or adoption has been repealed, may at any time (not being, in the latter case, less than two full years after such vote of non-approval or non-adoption, or after such repeal), by a requisition in the form of Schedule B, hereto appended, or to the like effect, signed by them and delivered on their behalf to the Clerk of the Municipality, propose a by-law to that end, for adoption by the electors thereof, and require that a poll be taken to determine whether or not they will adopt the same. In certain cases any thirty electors may propose such by-law, and demand a poll to determine whether it shall be adopted.

2. The Clerk, on receiving any such requisition, shall immediately endorse upon the same a certificate under his hand of the date of the delivery thereof to him; and shall file and keep the same among the records of the Municipal Council of the Municipality. 27-8 V. c. 18, s. 4. Their requisition to be filed.

7. On the passing of any such order for the submission of a by-law, or the passing of any by-law whereof the submission has been so required, or the receipt of any such requisition for the adoption of a by-law (as the case may be), the Clerk shall forthwith cause such by-law or such requisition for adoption of Notices of the holding of such poll; and when and where it will be held.



a by-law (as the case may be), to be published for four consecutive weeks in some newspaper published weekly or oftener within the Municipality, or if there is no such newspaper published in the Municipality, then in some newspaper published as near thereto as may be, and also by posting up copies of the same in at least four public places in the Municipality, and if the by-law is for a County, then in at least four public places in each Municipality in the County, with a notice signed by him, signifying that on some day within the week next after such four weeks, at the hour of ten in the forenoon, and at some convenient place (or places if the by-law is for a County), named in the notice, a meeting of the municipal electors of the Municipality (or if the by-law is for a County, then for each Municipality in the County) will be held, for the taking of a poll to decide whether or not the by-law is approved, or is adopted (as the case may be) by such electors.

If it be for a County.

2. If the by-law is for a County, the poll shall not be taken for the whole County at one place, but shall be taken in each of the several Municipalities of the County, respectively.

Who shall preside; and his powers.

3. At the meeting, the Mayor or Reeve of the Municipality in which the same is held—or in his absence such other member of the Municipal Council thereof as may be chosen by the meeting—or if no such member is present, then any municipal elector who may be chosen by the meeting—shall preside, and shall have all the powers for the preservation of the public peace which by law are vested in a Returning Officer or Deputy Returning Officer at a municipal election; and the Clerk of the Municipality shall attend thereat with the last revised assessment roll of the Municipality, or certified copies thereof; and the only business to be transacted shall be the taking of a poll, as signified by such notice.

Clerk to attend with assessment rolls.

How electors shall vote; and what oath they shall take.

4. Each elector desiring to vote shall present himself in turn to the person presiding, and shall give his vote "yea" or "nay"—the word "yea" meaning that he votes for the by-law, and the word "nay" that he votes against the same; and every vote given shall be recorded in a poll-book by the Clerk, or in his absence, by such person as may be named to act as Poll-Clerk by the person presiding; but no person's vote shall be recorded unless he appears by the assessment roll to be a duly qualified municipal elector, and further makes oath (if thereto required), in terms of Schedule C to this Act.

Closing poll for want of voters.

5. If at any time after the opening of the poll, one half hour elapses without a vote being offered, the poll may be closed.

Duration of poll in other cases.

6. Unless for that cause closed earlier, the poll shall be kept open till the hour of five in the afternoon of the day of the opening thereof, and no longer, if the names of the qualified

municipal electors on the assessment roll of the Municipality are not more than four hundred in number ; and until the like hour of the next day (Sundays and holidays excluded), if such names are more than four hundred and not more than eight hundred in number ; and so on, allowing one additional day for each additional four hundred names.

7. Until closed pursuant to one or other of the foregoing sub-sections, the poll shall be adjourned daily at the hour of five in the afternoon, to the hour of ten in the forenoon of the next day, Sundays and holidays excluded. Adjourning polls.

8. At the close of the poll, the person presiding shall count the "yeas" and the "nays," and ascertain and certify on the face of the poll-book the number of votes given for and against the by-law respectively ; and such certificate shall be countersigned by the Poll-Clerk ; and the poll-book, with such certificate therein, shall be deposited with and kept by the Clerk of the Municipality to be affected by the by-law, among the records of the Municipal Council thereof. Counting the votes and certifying the result. Deposit of poll-book.

9. If the by-law is for a County, the Warden of the County, so soon as the poll-books of the several Municipalities therein are so deposited, shall count and add up from each poll-book the total number of the "yeas" and of the "nays," respectively, in all the Municipalities forming such County, and shall certify the same in writing ; and the certificate shall be countersigned by the Clerk of the County, and shall be deposited and kept with the poll-books among the records of the County Council. If the by-law is for a County.

10. If one-half or more of all the votes polled are against the by-law, the by-law shall be held to be not approved, or not adopted, as the case may be. Majority required for adoption.

11. If more than half of all the votes polled are for the by-law, the same shall be held to be approved, or adopted, as the case may be. The same.

12. A by-law so approved, or adopted, as the case may be, may be repealed by a by-law of the Municipal Council of the Municipality affected thereby ; but such repealing by-law shall be submitted for approval to the electors, in the manner and with the formalities prescribed by the foregoing sub-sections, and shall not take effect unless approved by a majority of the electors voting thereon ; nor, if any such repealing by-law (upon being submitted to the electors) is not so approved, shall any other repealing by-law be submitted, for the like approval, within the full term of two years thereafter. 27-8 V. c. 18, s. 5. By-law so adopted may be repealed ; but in a certain manner only and on certain conditions.

Copy to be delivered to Inspector of Licenses.

8. Every by-law passed under authority and for enforcement of this Act, shall be communicated by delivery of a copy thereof, certified by the Clerk, to the Inspector of Licenses within whose official district the Municipality affected thereby is situate.

Certificate to be endorsed.

2. Wherever such by-law has been approved by the electors, there shall be endorsed or written upon the copy so delivered, a certificate of the fact, under the hand of the Clerk, in the form of Schedule D, hereto appended, or to the like effect.

Certified copies of by-law to be evidence.

3. Wherever such by-law has been adopted by the electors, a copy of the requisition therefor, certified by the Clerk, together with a certificate under his hand thereon endorsed or written, of the fact of its adoption, in the form of Schedule E, hereto appended, or to the like effect, shall be taken as a duly certified copy of the by-law, for all purposes of such delivery, and for all other purposes whatever. 27-8 V. c. 18, s. 6. *See* 39 V. c. 26, s. 27 (3).

Copy to the Clerk of each Municipality in the County.

9. Every such County by-law shall also, at the same time, be communicated by the like delivery to the Clerk of each Municipality in the County, who shall file and keep the same among the records of the Municipal Council thereof. 27-8 V. c. 18, s. 7.

When the by-law shall come into force.

10. Every by-law passed under authority and for enforcement of this Act, shall come into force from the first day of May next after the final passing thereof; and every such by-law shall continue in force until the first day of May next after the repeal thereof; but this provision shall not affect any question as to the validity of any by-law passed before the second day of March, 1877, or the time at which any by-law voted on before the first day of May, 1877, is to go into effect.

Its duration.

If there is a by-law of a minor Municipality in force,

2. If at the time of the coming into force of any County by-law, passed under authority and for enforcement of this Act, there is in force within any Municipality forming part of such County, any other by-law passed under authority and for enforcement of this Act, the operation of such last-mentioned by-law shall be and remain suspended for so long as the County by-law continues in force, but shall revive, in default of express repeal thereof, if the County by-law is repealed. 27-8 V. c. 18, s. 8; 40 V. c. 8, s. 72.

Not to be repealed within a certain time.

11. No such by-law shall be repealed within the full term of one year from the day upon which the same came into force. 27-8 V. c. 18, s. 9; 40 V. c. 8, s. 72.

Concurrence of neighbouring Municipalities.

12. The Municipal Councils of any two or more neighbouring Municipalities, wherein any such by-law is in force, may



each of them, by a further by-law, concur in and confirm mutually such by-law or by-laws of the other or others of such Municipalities.

2. Such further by-law shall not have embodied therein any other provision than the simple declaration that the by-law or by-laws of the neighbouring Municipality or Municipalities in question are thereby concurred in confirmed. Form of concurrence.

3. Such further by-law shall be submitted for approval to the electors, in the manner and with the formalities prescribed by the seventh section of this Act, and shall not take effect unless approved by a majority of the electors voting thereon. By-law to be submitted to electors.

4. No by-law so mutually concurred in and confirmed shall thereafter be repealed, unless with the like concurrence in and confirmation of such repeal, on the part of the Municipalities in question. 27-8 V. c. 18, s. 10; See 40 V. c. 8, s. 72. How only to be repealable.

13. From the day on which any by-law passed under authority and for enforcement of this Act, takes effect and for so long thereafter as the same continues in force, No license to be issued while a prohibitory liquor law remains in force.

(a.) No license shall be issued to take effect within the County, City, Town, Township, or incorporated Village affected by such by-law—either any tavern license, that is, a license for the retail of spirituous, fermented or other manufactured liquors to be drunk in the inn, ale-house, beer-house, or other house of public entertainment in which the same are sold, or any shop license, that is, license for the retail of such liquors in shops, stores or places other than inns, ale-houses, beer-houses or places of public entertainment. 27-8 V. c. 18, s. 11.

(b.) No person, unless it be for exclusively medicinal or sacramental purposes, or for *bona fide* use in some art, trade or manufacture, or as hereinafter authorized by the third or the fourth sub-section of this section, shall, within such County, City, Town, Township, or incorporated Village, by himself, his clerk, servant or agent, expose or keep for sale, or directly or indirectly, on any pretence or by any device, sell or barter, or, in consideration of the purchase of any other property, give to any other person, any spirituous or other intoxicating liquor, or any mixed liquor capable of being used as a beverage, and part of which is spirituous or otherwise intoxicating; While the by-law is in force no intoxicating liquor to be sold on any pretence, for any but medicinal or sacramental purposes, &c.

2. And neither any license issued to any distiller or brewer, —nor yet any license for retailing on board any steamboat or other vessel, brandy, rum, whiskey, or other spirituous liquors, wine, ale, beer, porter, cider or other vinous or fermented liquors, —nor yet any license for retailing on board any steamboat or other vessel, wine, ale, beer, porter, cider or other vinous or fermented liquors, but not brandy, rum, whiskey or other spiri- Licenses to be of no effect.

tuous liquors,—nor yet any other description of license whatever,—shall in anywise avail to render legal any act done in violation of this section ;

Not to prevent sale in quantities of five gallons by licensed persons at place of manufacture.

Proviso in favour of brewers.

3. But any licensed distiller or brewer, having his distillery or brewery within such County, City, Town, Township or incorporated Village, may thereat expose and keep for sale such liquor as he has manufactured thereat, and no other ; and may sell the same thereat, notwithstanding anything in this Act contained, but only in quantities not less than five gallons at any one time, to be wholly removed and taken away therefrom in quantities not less than five gallons at a time ; and any such licensed brewer may sell bottled ale or porter of such manufacture, in quantities not less than one dozen bottles of at least three half-pints each, at any one time, to be wholly removed and taken away in quantities not less than one dozen such bottles at a time.

Proviso in favour of merchants, for sale in certain quantities.

Rev. Stat. c. 181, s. 107.

4. Any merchant or trader having obtained a wholesale license pursuant to "*The Liquor License Act*," and having his store or place for sale of goods within such County, City, Town, Township or incorporated Village, may thereat keep for sale and sell intoxicating liquor, notwithstanding anything in this Act contained, but only in quantities of not less than five gallons in each cask or vessel, (or in the case of bottled ale, porter, beer, wine, or other fermented or spirituous liquor, not less than one dozen bottles of at least three half-pints each), at any one time, to be wholly removed and taken away in quantities not less than those above mentioned at a time. 27-8 V. c. 18, s. 12. 40 V. c. 18, s. 30 (2).

#### PENALTIES AND PROSECUTIONS.

Selling personally or by the intervention of others, forbidden, etc.

Penalty.

The agent equally guilty with the principal.

14. Whoever by himself, his clerk, servant or agent, exposes or keeps for sale, or directly or indirectly, on any pretence, or by any device, sells or barter, or, in consideration of the purchase of any other property, gives to any other person any spirituous or other intoxicating liquor, or any mixed liquor capable of being used as a beverage, and a part of which is spirituous, or otherwise intoxicating, in violation of the thirteenth section of this Act, shall incur a penalty of not less than twenty nor more than fifty dollars for each such offence ; and whoever in the employment, or on the premises of another, so exposes or keeps for sale, or sells, or barter, or gives, in violation of the said section, shall be held equally guilty with the principal, and shall incur the same penalty. 27-8 V. c. 18, s. 13.

Interpretation as to ss. 16-37.

15. In the next following twenty-two sections, the word "Justice" shall include any such Stipendiary Magistrate, Police Magistrate, or Mayor, or any such two other Justices of the Peace, as the case may be. 27-8 V. c. 18, s. 14 (6).

**16.** Any prosecution for such penalty may be brought by, or in the name of, the Inspector of Licenses within whose official district the offence was committed, or by or in the name of the Corporation of the Municipality wherein the offence was committed, or by or in the name of any person, whether authorized by the Council of such Municipality or not; and where the by-law is a County by-law, the Corporation of the County, equally with that of the Municipality comprised therein, and within which the offence was committed, may prosecute, or may authorize any person to prosecute. 27-8 V. c. 18, s. 14 (1).

By whom penalties may be recovered ;

**2.** Such prosecution may be brought before any Stipendiary Magistrate, or before any two other Justices of the Peace, for the County or Union of Counties wherein the offence was committed; or, if the offence was committed in any City or Town having a Police Magistrate, then before such Police Magistrate; or if the offence was committed in any City or Town not having a Police Magistrate, then before the Mayor thereof. 27-8 V. c. 18, s. 14 (3).

And before what tribunal.

**3.** If such prosecution is brought before any such Stipendiary Magistrate, Police Magistrate or Mayor, no other Justice shall sit or take part therein. 27-8 V. c. 18, s. 14 (4).

If before a Stipendiary Magistrate, etc.

**4.** If such prosecution is brought before any two other Justices of the Peace, the summons shall be signed by both of them; and no other Justice shall sit or take part therein, unless by reason of their absence, or the absence of one of them, nor yet in the latter case, unless with the assent of the other of them. 27-8 V. c. 18, s. 14 (5).

If before two Justices.

**17.** Every such prosecution shall be commenced within three months after the alleged offence, and shall be heard and determined in a summary manner, either upon the confession of the defendant, or upon the evidence of one or more witnesses. 27-8 V. c. 18, s. 15.

Limitation and form of suit.

**18.** It shall not be necessary, in any such prosecution, to set forth or mention on the face of the complaint, summons, conviction, warrant of distress or warrant of commitment, the by-law bringing the Municipality within the special purview of this Act; but such complaint, summons, conviction and warrants may be in the form of Schedules F, G, H, I, J and K respectively, hereto appended, or to the like effect; and unless the defendant specially puts in issue the fact of such by-law being in force, such fact shall be presumed by the Justice; and if such fact is so put in issue, the production of a copy of such by-law, certified under the hand of the Clerk of the Municipality, and having thereon a certificate under the hand of the same officer, of the due publication (if requisite), shall be conclusive proof of the passing and of the tenor thereof, and also of such publication, as so certified; and no fact so certified touching such by-law shall be incidentally put in issue or questioned in the course of any such prosecution. 27-8 V. c. 18, s. 16.

What only it shall be necessary to insert in the complaint, etc.

As to allegation and proof of by-law.



Several offences may be included.

**19.** Two or more offences by the same party may be included in any such complaint, provided the time and place of each offence is stated; and in that case, the forms aforesaid shall be altered, so far as may be necessary, accordingly;

Proviso: total penalty limited.

**2.** But whatever may be the number of the offences so included in one complaint, the maximum of penalty imposable for them all shall in no case exceed one hundred dollars. 27-8 V. e. 18, s. 17.

*Ex parte* if defendant does not appear.

**20.** If in any such case the defendant fails to appear as required by the summons, the Justice may proceed *ex parte* to the consideration and hearing thereof, and may adjudicate therein, as fully and effectually to all intents as though the defendant had duly appeared in obedience to the summons. 27-8 V. e. 18, s. 18.

Amendment of complaint,

**21.** Any such complaint may be amended before final hearing, in any matter of form or substance, upon application to that effect, by or for the prosecutor, and without costs, unless otherwise specially ordered by the Justice: and on such amendment being made, the defendant (should he require it) may have a further delay to plead to the merits, or for plea and proof, as may be ordered; and if the complaint, in the opinion of the Justice, is so defective that a legal conviction cannot be based upon it, and is not amended, the Justice may dismiss the case, with or without costs in his discretion. 27-8 V. e. 18, s. 19.

If adjudged too defective.

Not to be dismissed for informality, &c., but adjourned in certain cases.

**22.** No such prosecution shall otherwise be dismissed for any defect, informality, error or omission; but if it appears that the defendant has been, or may have been materially misled thereby, the Justice may, on such terms as he thinks fit, adjourn the further proceedings in the case to a future day. 27-8 V. e. 18, s. 20.

No costs against prosecutor if probable cause.

**23.** If any such prosecution is dismissed, the Justice, if he is of opinion that there was probable cause for the complaint, shall not award to the defendant costs against the prosecutor. 27-8 V. e. 18, s. 21.

Service of process, &c.

**24.** Every summons or other process, proceeding or paper, in any such case, may be served, and the service thereof certified under his oath of office, by any bailiff, or by any constable or peace officer, duly appointed for the locality wherein the same is pending. 27-8 V. e. 18, s. 22.

Depositions may be reduced to writing and filed.

**25.** In every such case, if the Justice so orders, or if either party so requires, the depositions of the witnesses shall be reduced to writing by the Justice, or by such Clerk as the Justice may appoint to that end, and shall be filed of record in the cause.

2. Such Clerk shall be entitled to charge and receive at the rate of ten cents for each hundred words of evidence so reduced to writing, or of two dollars *per diem*, in the discretion of the Justice—to be allowed on taxation, and paid by either party, or partly by each party, as the conviction or judgment in the case may ordain; and if no conviction or judgment is rendered therein within two months after the taking of such evidence, then the fees of the Clerk shall be paid in equal shares by each party. 27-8 V. c. 18, s. 23.

Fees to clerk employed, and how paid.

26. It shall not be necessary, in any such case, to prove that an offence was committed on the precise day specified, in order to obtain a conviction; provided it is proved that the same was committed on or about such day, and before the date of the complaint. 27-8 V. c. 18, s. 24.

Proof of precise date of offences dispensed with.

27. In all such cases, the delivery of intoxicating liquor of any kind in or from any building, booth or place, other than a private dwelling-house or its dependencies, or in or from any dwelling-house or its dependencies, if any part thereof is used as a tavern, eating house, grocery, shop, or other place of common resort,—such delivery in either case being to any one not *bona fide* a resident therein,—shall *prima facie* be deemed evidence of and punishable as a sale in violation of the thirteenth and fourteenth sections of this Act; and any such delivery in or from a private dwelling-house or its dependencies, or in or from any other building, booth or place whatever, to any one whether resident therein or not, with payment or promise of payment, either express or implied, before, on or after such delivery, shall *prima facie* be deemed evidence of and punishable as a sale in violation of the said sections. 27-8 V. c. 18, s. 25.

Delivery of liquor in other than private houses or to residents to be deemed evidence of a sale.

What shall be so deemed in private houses or to residents.

28. In any such case, the Justice may summon any person represented to him as a material witness in relation thereto; and if such person refuses or neglects to attend pursuant to such summons, the Justice may issue his warrant for the arrest of such person, and he shall thereupon be brought before the Justice; and if he refuses to be sworn or to affirm, or to answer any question touching the case, he may be committed to the common gaol, there to remain until he consents to be sworn, or to affirm, and to answer. 27-8 V. c. 18, s. 26.

Summoning witnesses; committal of those refusing to answer.

29. Any person examined or called as a witness in any such case, shall be bound to answer all questions put to him, which the Justice deems relevant, notwithstanding his answers may disclose facts subjecting or tending to subject him to any penalty or other criminal proceeding. 27-8 V. c. 18, s. 28.

Witnesses bound to answer all relevant questions. Jurisdiction.

[The original section adds the following:—

But his answers shall not be used against himself in any prosecution or criminal proceeding.]

[Section 29 of 27-8 V. c. 18, provides as follows :—

Penalty for tampering with witnesses.

29. Any person who, either before or after the summons of any witness in any such case, tampers with such witness, or by any offer of money, or by threat or otherwise, directly or indirectly, induces or attempts to induce any such person to absent himself or herself or to swear falsely, shall be liable to a penalty of fifty dollars for each such offence.]

Defendant may be examined as to his means of satisfying the judgment.

30. Whenever judgment is rendered under the said thirteenth and fourteenth sections of this Act, for the amount of any penalty and costs, the Justice, if he sees fit, may call on the defendant to declare whether or not he possesses sufficient goods and chattels to satisfy the same,—and if the answer is affirmative, may further examine him as to the sufficiency of such goods and chattels, and as to their being or not being readily available for seizure under a warrant of distress; and if the defendant either answers in the negative, or refuses to answer, or fails to answer to the satisfaction of the Justice, he may be forthwith imprisoned under the warrant of the Justice, in the form or to the effect of Schedule J to this Act, in the Common Gaol of the District, or County, or Union of Counties, for a period of not less than one nor more than three months, counting from the day of his arrival as a prisoner at such Gaol; but the defendant, in that case, may at any time obtain his liberation from such imprisonment, by making full payment of such amount and of all subsequent costs. 27-8 V. c. 18, s. 30.

Imprisonment if his answers are not satisfactory.

Imprisonment if defendant is absent and does not appear to have goods to satisfy judgment.

31. If the defendant is not present at the time of the rendering of such judgment, and it is made to appear to the satisfaction of the Justice, by affidavit, that the issue of a warrant of distress would be likely to fail of realizing the full amount thereof, in penalty and costs, the defendant may be forthwith imprisoned in such Common Gaol, under warrant of the Justice, in the form or to the effect of Schedule J, for a period of not less than one nor more than three months, counting from the day of his arrival as a prisoner at such Gaol; but the defendant, in that case, may at any time obtain his liberation from such imprisonment by making full payment of such amount and of all subsequent costs. 27-8 V. c. 18, s. 31.

Execution if defendant has sufficient goods.

32. If the Justice does not so interrogate the defendant being present,—or if the defendant being interrogated shows that he possesses a sufficiency of available goods and chattels to satisfy the amount of the judgment in penalty and costs,—or if, in the absence of the defendant, it is not shown to the satisfaction of the Justice that the issue of a warrant of distress would be likely to fail of realizing the full amount of the judgment, in penalty and costs,—then in default of immediate payment, such amount shall be levied by warrant of distress out of the goods and chattels of the defendant; and in default of such goods and chattels, or in case of their being insufficient, the defendant shall be imprisoned in such Common Gaol, under warrant of the Justice, in the form or to the effect of

In default of goods, imprisonment.



Schedule K to to this Act, for a period of not less than one nor more than three months, counting from the day of his arrival as a prisoner at such gaol; and the defendant, in that case, may at any time obtain his liberation from such imprisonment, by making full payment of such amount and of all subsequent costs. 27-8 V. c. 18, s. 32.

Liberation on payment in full.

**33.** All such penalties shall be disposed of in the following manner, that is to say:

Application of penalties.

1. If the prosecution was brought by or in the name of the Inspector of Licenses, and not under authorization from the Council of a Municipality, the penalty shall be paid to the Inspector, and, after paying one-third part thereof to the person (if any) on whose information he instituted the prosecution, shall by the Inspector be paid in to the credit of the "License Fund Account" of the District, as mentioned in and subject to the provisions of section thirty-five of "*The Liquor License Act*."

If presented by an Inspector of Licenses.

Rev. Stat. c. 181, s. 35.

2. If the prosecution was brought by or in the name of the Corporation of a Municipality, or by or in the name of any person authorized by the Council thereof, the whole shall belong to such Corporation; and the Council of the Municipality may pay over not more than one-half thereof, either to such person, or to any other person upon whose information the prosecution was instituted;

If by a Municipality

3. If the prosecution was brought by or in the name of any person not so authorized, the penalty shall belong to the Corporation of the Municipality whose by-law is thereby enforced; and in that case, the Council may pay over to any other person upon whose information the prosecution was instituted, not more than one-half of the whole penalty, or may apply the same to municipal purposes as they see fit. 27-8 V. c. 18, s. 34; 39 V. c. 26, s. 27.

If by a private party.

**34.** Any person bringing such prosecution under authorization from a Municipal Council, shall be indemnified by the Corporation of the Municipality so authorizing him, for all costs therein, whatever may be the result of the prosecution.

Indemnification of prosecutors authorized by municipalities as to costs.

2. Any person bringing such prosecution to a successful issue, without having been so authorized, shall be indemnified by the Corporation whose by-law is thereby enforced, for any amount of costs which, without default on his part, he may have failed to recover from the defendant.

Without such authority.

3. Whenever any person is committed to gaol under the thirtieth, thirty-first or thirty-second sections of this Act, the cost of his arrest and conveyance to gaol shall in like manner be borne by the Corporation whose by-law is thereby enforced. 27-8 V. c. 18, s. 35.

The same.

Cost of conveying to gaol.

No *certiorari* allowed, nor appeal in certain cases.

**35.** No conviction, judgment or order, in any such case, shall be removed by *certiorari* or otherwise, into any of Her Majesty's Superior Courts of Record; nor shall any appeal whatever be allowed from any such conviction, judgment or order, to any Court of General Sessions, or other Court whatever, when the conviction has been made by a Stipendiary Magistrate or Police Magistrate. 27-8 V. c. 18, s. 36.

No by-law void for defect of form.

**36.** No by-law passed under authority and for enforcement of this Act, shall be set aside by any Court, for any defect of procedure or form whatever;

Or for defect in matters precedent to the poll.

2. And no such by-law adopted by the electors of a Municipality under the sixth and seventh sections of this Act, shall be set aside by any Court, for any defect whatever, whether of form or substance, affecting the requisition therefor, the authenticity or number of the signatures thereto, the qualification of the signers thereof, or any matter, thing or procedure antecedent to the first publication of the notice given for the poll taken thereon unless the same is unauthorized by this Act. 27-8 V. c. 18, s. 37.

Obligation of officers to perform duties assigned to them by this Act.

Rev.Stat.c.174

**37.** Every duty devolving upon any municipal officer under any of the foregoing sections of this Act, shall be performed by such officer, with the same powers and under the same penalties and liabilities, in all respects whatever, as though the same devolved upon him under the express enactments of "*The Municipal Act.*"

Provisions of Rev. Stat. c. 174, for preservation of order at elections, to apply to those under this Act.

2. All the provisions of the said Act for the preservation of peace and good order at municipal elections, the prevention and punishment of offences at or with respect to such elections, the expenses thereof, the power to appoint and swear special constables, and to administer oaths or affirmations to voters, the remedy in case of interruption of the proceedings, and generally all the provisions of the said Act respectively relating to municipal elections and the polls thereat, and all matters incident thereto shall apply to the polls taken under this Act and the proceedings thereat, the officers and persons presiding at or employed in or about the same, and all matters incident thereto, as if such polls were held with respect to elections under the said Act,—except only in so far as such provisions may be inconsistent with those of this Act. 27-8 V. c. 18, s. 38.

This Act not affected by Rev. Stat. c. 181.

**38.** Nothing in "*The Liquor License Act*" shall be construed to affect or impair any of the provisions of this Act; and no tavern or shop license shall be issued to take effect within any County, City, Town, incorporated Village, or Township within which any by-law under authority and for enforcement of this Act is in force. 39 V. c. 26, s. 27 (1).

**39.** The Lieutenant-Governor in Council may, notwithstanding that any such by-law affects the whole of any County, nominate a Board of Commissioners of the number and for the period mentioned in the third section of "*The Liquor License Act*," and also an Inspector; and the said Board and Inspector shall have, discharge and exercise all such powers and duties respectively for preventing the sale, traffic or disposal of liquor contrary to the said Act or this Act as they respectively have or should perform under the said Act. 39 V. c. 26, s. 27 (2).

Commissioners and Inspectors may be appointed where this Act is in force. Rev. Stat. c. 181, s. 3.

**40.** The sale of liquor without license in any Municipality where this Act is in force shall nevertheless be a contravention of sections thirty-nine and forty of "*The Liquor License Act*," and the several provisions of the said Act shall have full force and effect in every such Municipality except in so far as such provisions relate to granting licenses for the sale of liquor by retail. 40 V. c. 18, s. 30.

Prosecutions where this Act is in force.

**41.** The Board of License Commissioners and the Inspector appointed for any License District under "*The Liquor License Act*," shall exercise and discharge all their respective powers and duties for the enforcement of the provisions of this Act, within the limits of any County, City, incorporated Village, Township or other portion of their License District, in which any by-law under authority and for enforcement of this Act is in force. 39 V. c. 26, s. 27 (3).

Duties of License Commissioners and Inspectors.

**42.** All expenses incurred in carrying the provisions of the last section into effect shall be borne and paid in the proportion of one-third by the Province, out of the Consolidated Revenue Fund, and two-thirds by the Municipality within which any such by-law is in force, in cases where there is no License Fund under "*The Liquor License Act*;" and the proportion of such expenses payable by the Municipality shall become due and payable in one month after the same has been audited by the Provincial Treasurer, and after the Board of License Commissioners have requested payment of the same by notice in writing to the Clerk of the Municipality. 39 V. c. 26, s. 27 (4); 40 V. c. 18, s. 35.

Expenses in each case.

Rev. Stat. c. 181.

## SCHEDULE "A."

(Section 5, sub-section 2.)

FORM OF REQUISITION THAT BY-LAW BE SUBMITTED FOR APPROVAL  
TO ELECTORS.

The undersigned, qualified municipal electors of (*designate the Municipality*), hereby require that any by-law which the Municipal Council there-



of may pass under authority and for enforcement of "*The Temperance Act of Ontario*" at any time within one year from the date hereof, be submitted for approval to the municipal electors of the said Municipality.

Witness our hands, this            day of            , in the year of our Lord one thousand eight hundred and            .

## SCHEDULE "B."

(Section 6.)

### FORM OF REQUISITION FOR A POLL ON BY-LAW PROPOSED BY ELECTORS FOR ADOPTION.

The undersigned, qualified municipal electors of (*designate the Municipality*), hereby require that a poll be taken in terms of "*The Temperance Act of Ontario*" to determine whether or not the qualified municipal electors of the said Municipality will adopt, under authority and for enforcement of the said Act, the by-law following, which we hereby propose for their adoption, to wit :

The sale of intoxicating liquors and the issue of licenses therefor, is by the present by-law prohibited within the (*designate the Municipality*), under authority and for enforcement of "*The Temperance Act of Ontario*."

Witness our hands, this            day of            , in the year of our Lord one thousand eight hundred and            .

## SCHEDULE "C."

(Section 7, sub-section 4.)

### OATH TO BE TAKEN BY ELECTOR.

You swear (or affirm) that you are of the full age of twenty-one years. and a natural-born or naturalized subject of her Majesty ;

That you are a freeholder in your own right (or, in the right of your wife) of property in this Municipality ;

[Or, That you are a householder in this Municipality ; and have been a resident within the Municipality for which this vote is being taken, for one month next before this voting ;]

That you are the person named on the last revised Assessment Roll ;

[Or, in the case of a new Municipality in which there has not yet been any Assessment Roll, That you are a resident freeholder or householder in (*naming the property entitling the elector to vote on the by-law*) ;]

That you have not before voted on this by-law ;

That you have not received anything, nor has anything been promised to you, directly or indirectly, either to induce you to vote at this voting, or for loss of time, travelling expenses, hire of team, or any other service connected with this voting ; and

That you have not, directly or indirectly, paid or promised anything to any person, either to induce him to vote or to refrain from voting.

27-8 V. c. 18, s. 5 (4) ; 40 V. c. 8, s. 50.

## SCHEDULE "D."

(Section 8, sub-section 2.)

## FORM OF CERTIFICATE OF APPROVAL OF BY-LAW BY ELECTORS.

The foregoing by-law of the Municipal Council of (*designate the Municipality*), having been submitted for approval, by order of the said Municipal Council, to the municipal electors of the said (*designate the Municipality*), has been by them duly approved, in terms of "*The Temperance Act of Ontario*."

Witness my hand this                      day of                      , in the year of our Lord one thousand eight hundred and

## SCHEDULE "E."

(Section 8, sub-section 3.)

## FORM OF CERTIFICATE OF ADOPTION OF BY-LAW BY ELECTORS.

The by-law proposed for adoption by the foregoing requisition to the municipal electors of the said (*designate the Municipality*), has been by them duly adopted, in terms of "*The Temperance Act of Ontario*."

Witness my hand, this                      day of                      , in the year of our Lord one thousand eight hundred and

## SCHEDULE "F."

(Section 18.)

## FORM OF COMPLAINT.

PROVINCE OF ONTARIO,                      } A. B., (*designate duly and sufficiently the*  
County (or, as case may be)                      } *Corporation or other prosecutor, as the case*  
of                      } *may require,*) in behalf of our Sovereign  
Lady the Queen, prosecutes C. D., of (*designate duly and sufficiently the*  
*defendant*), and complains: That the said C. D., at (*designate duly the*  
*Municipality*), on (*designate the time or times*), and at sundry times before  
or since, did (*here state succinctly the offence charged*), contrary to "*The*  
*Temperance Act of Ontario*," then and there being fully in force; where-  
by and by force of the said Act, the said C. D. has become liable to pay  
the sum of

Wherefore the said prosecutor prays that the said C. D. be condemned  
to pay the sum of                      , with costs.

## SCHEDULE "G."

(Section 18.)

## FORM OF SUMMONS.

PROVINCE OF ONTARIO, } To C. D., of (*designate duly and sufficiently the*  
County (*or as case may* } *defendant*).  
be) of

You are commanded to appear before (us or me, as the case may be) the undersigned Justices of the Peace for the said County (*or as the case may be*), at (*name the place*), on the \_\_\_\_\_ day of \_\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon (*if the summons be issued by two Justices and not by a Stipendiary Magistrate, or Police Magistrate, add here the words, or before such other Justices of the Peace for the said County. or as the case may be, as may then be there*), to answer to the matters charged against you by (*designate the prosecutor*), who prosecutes you in Her Majesty's behalf, as the same are set forth in the complaint hereto annexed, —otherwise judgment will be given against you by default.

Given under our (*or my*) hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_, and in the County (*or as the case may be*) aforesaid.

(Signatures and Seals.)

## CERTIFICATE OF SERVICE.

I, the undersigned, E. F., of (*designate duly the bailiff or other party certifying*), do hereby certify, upon my oath of office, that on the \_\_\_\_\_ day of \_\_\_\_\_, I did serve the within summons, and the complaint thereto annexed, on the within named defendant, at the hour of \_\_\_\_\_ of the clock in the \_\_\_\_\_ noon, by leaving a true and certified copy of the said summons and of the said complaint at the domicile of the said defendant, in the \_\_\_\_\_, speaking to \_\_\_\_\_ (*or if the service was personal, by speaking to him and leaving with him a true and certified copy of the said summons and of the said complaint at* .)

(To be dated and signed in the ordinary manner.)

## SCHEDULE "H."

(Section 18.)

## FORM OF CONVICTION.

PROVINCE OF ONTARIO, } Be it remembered, that on the \_\_\_\_\_ day of  
County (*or as case may* } \_\_\_\_\_, in the year of our Lord one thousand  
be) of \_\_\_\_\_ } eight hundred and \_\_\_\_\_, at (*designate the*  
*place where the conviction is had*), in the said County (*or as case may be*).  
C. D., of (*designate the defendant*), is convicted before the undersigned,  
G. H., Esquire, of \_\_\_\_\_ (*designating the official function of the party*



convicting, as the case may be), for that he, the said C. D., did (*state succinctly the offence*) ; and I (or we) adjudge the said C. D., for his said offence, to forfeit and pay to (*designate the prosecutor*) the sum of \_\_\_\_\_ and also the further sum of \_\_\_\_\_ for costs in this behalf.

Given under my (or our) hand and seal, the day and year first above mentioned.

(*Signature and Seal.*)

## SCHEDULE "I."

(*Section 18.*)

### FORM OF WARRANT OF DISTRESS.

PROVINCE OF ONTARIO, } G. A., Esquire, of \_\_\_\_\_ (*designating*  
County (or as case may } *the official function of the party issuing the war-*  
be) of \_\_\_\_\_ rant.)

To any bailiff, constable or other officer of the Peace, in and for the said County (or as case may be) :

Whereas C. D. of \_\_\_\_\_ (*designate the defendant*), has been convicted before \_\_\_\_\_ of having (*state the offence*), and for such offence adjudged to pay A. B., (*designate the prosecutor*) the sum of \_\_\_\_\_, and also the further sum of \_\_\_\_\_ for costs in that behalf ; \*

These are therefore to command you, and each of you, to distrain the goods and chattels of the said C. D., wheresoever they may be found within the said County (or as case may be), and thereon to levy the said penalty and costs, making together the sum of \_\_\_\_\_ ; and if within the space of four days next after such distress made, the said last mentioned sum of \_\_\_\_\_, together with the reasonable charges of taking and keeping the said distress, are not paid, that then you do sell the said goods and chattels so by you distrained as aforesaid, and out of the money arising from such sale, that you do pay the said sum of \_\_\_\_\_ unto the said A. B., refunding to the said C. D. the overplus, the reasonable charges of taking, keeping and selling, the said distress being first deducted; and you are to certify to me (or us) with the return of this warrant what you shall have done in the execution thereof. Herein fail not.

Given under my (or our) hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and \_\_\_\_\_, at \_\_\_\_\_, in the County (or as case may be) aforesaid.

(*Signature and Seal.*)

## SCHEDULE "J."

(*Sections 18, 30 and 31.*)

### FORM OF WARRANT OF COMMITMENT, UNDER SECTIONS THIRTY OR THIRTY-ONE.

PROVINCE OF ONTARIO, } To all or any of the bailiffs, constables and  
County (or as case may } other officers of the Peace, in the County (or as  
be) of \_\_\_\_\_ case may be) of \_\_\_\_\_, and to the keeper  
of the gaol at the same County (or as case may be.)

Whereas, &c., (*as in the foregoing Schedule I., to the mark\**) ; and whereas (*state circumstances under which, in terms of section thirty or thirty-one, as the case may be, the warrant is issued*) ; These are therefore to command you the said bailiffs, constables or officers of the Peace, or any of you, to take the said C. D., and him safely convey to the gaol of the said County (*or as the case may be*) and there deliver him to the said keeper thereof, together with this warrant ; and I (*or we*) do hereby command you the said keeper of the said gaol to receive the said C. D., into your custody in the said gaol, and to imprison him for the space of \_\_\_\_\_ from the day of his arrival as a prisoner thereat, unless the said last mentioned sum of \_\_\_\_\_ and all the costs of the commitment and conveying of the said C. D. to the said gaol, amounting to the further sum of \_\_\_\_\_ are sooner paid unto you the said keeper, and for so doing this shall be your sufficient warrant

Given, &c., (*as in Schedule K*).

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## SCHEDULE "K."

(*Section 32.*)

### FORM OF WARRANT OF COMMITMENT, UNDER SECTION THIRTY-TWO.

(*As in the foregoing Schedule I., to the mark\**) ; And whereas afterwards, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, I (*or as case may be*) issued a warrant of distress for the levying of the said amount, together with the reasonable charges of the said distress ; And whereas (*state circumstances under which, in terms of section thirty-two, the warrant is issued*) ; These are therefore to command you the said bailiffs, constables or officers of the Peace, or any one of you, to take the said C. D., and him safely convey to the gaol of the said County (*or as case may be*), and there deliver him to the said keeper thereof, together with the warrant, and I (*or we*) do hereby command you the said keeper of the said gaol to receive the said C. D. into your custody in the said gaol, and there to imprison him for the space of \_\_\_\_\_, from the day of his arrival as a prisoner thereat, unless the said last mentioned sum of \_\_\_\_\_ and all the costs of the said distress, and of the commitment and conveying of the said C. D. to the said gaol, amounting to the further sum of \_\_\_\_\_, are sooner paid unto you the said keeper ; and for so doing this shall be your sufficient warrant.

Given, &c. (*as in foregoing Schedule K*).

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## 5. *Highways.*

- CHAP. 183.—Travelling on Public Highways and Bridges, p. 359.  
 “ 184.—Exemption of certain Vehicles, Horses and other Cattle from Tolls on Turnpike Roads, p. 361.  
 “ 185.—Double Tracks in Snow Roads, p. 363.  
 “ 186.—Use of Traction Engines on Highways, p. 365.  
 “ 187.—Planting of Trees along Public Highways, p. 368.  
 “ 188.—Prevention of the spreading of Canada Thistles, p. 370.

### CHAPTER 183.

#### An Act to regulate Travelling on Public Highways and Bridges.

##### Highways :

- Vehicles meeting, s. 1.  
 Overtaking and passing, ss. 2-3.  
 Penalty for driving when intoxicated, s. 4.  
 For furious driving or blasphemy, s. 5.  
 Sleigh bells necessary, s. 6.

##### Bridges :

Notice to be put up on, s. 7.

Penalty for defacing, s. 8.

Fast driving on prohibited, s. 9.

##### Penalties :

How recoverable, ss. 10-12.

Recovery of not to prevent a civil action for damages, s. 13.

Application of, s. 14.

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

##### HIGHWAYS.

**1.** In case any person travelling or being upon any highway in charge of a vehicle drawn by one or more horses, or one or more other animals, meets another vehicle drawn as aforesaid, he shall turn out to the right from the centre of the road, allowing to the vehicle so met one-half of the road. C. S. U. C. c. 56, s. 1.

Carriages meeting to drive to the right, giving half the road.

**2.** In case any person travelling or being upon any highway in charge of a vehicle as aforesaid, or on horseback, is overtaken by any vehicle or horseman travelling at greater speed, the person so overtaken shall quietly turn out to the right and allow the said vehicle or horseman to pass. C. S. U. C. c. 56, s. 2.

Carriages overtaken to turn to the right.



If the weight of one of them prevents this.

**3.** In the case of one vehicle being met or overtaken by another, if by reason of the extreme weight of the load on either of the vehicles so meeting or on the vehicle so overtaken the driver finds it impracticable to turn out as aforesaid, he shall immediately stop, and, if necessary for the safety of the other vehicle, and if required so to do, he shall assist the person in charge thereof to pass without damage. C. S. U. C. c. 56, s. 3.

Penalty on drivers, &c., too drunk to manage their horses.

**4.** In case any person in charge of a vehicle, or of a horse or other animal used as the means of conveyance, travelling or being on any highway as aforesaid, is through drunkenness unable to drive or ride the same with safety to other persons travelling on or being upon the highway, he shall incur the penalties imposed by this Act. C. S. U. C. c. 56, s. 4.

Racing, swearing, etc., on highways forbidden.

**5.** No person shall race with or drive furiously any horse or other animal, or shout or use any blasphemous or indecent language upon any highway. C. S. U. C. c. 56, ss. 5 & 6.

Sleigh horses to have bells.

**6.** Every person travelling upon any highway with a sleigh, sled or eariole, drawn by horse or mule, shall have at least two bells attached to the harness. C. S. U. C. c. 56, s. 7.

#### BRIDGES.

Notice to be posted at the bridges to which this Act applies.

**7.** Every person who has the superintendence and management of any bridge exceeding thirty feet in length shall cause to be put up at each end thereof, conspicuously placed, a notice legibly printed in the following form :

Form of.

“Any person or persons riding or driving on or over this bridge at a faster rate than a walk will, on conviction thereof, be subject to a fine, as provided by law.”

C. S. U. C. c. 56, s. 8.

Penalty on persons defacing such notice.

**8.** In case any person injures, or in any way interferes with such notice, he shall incur a fine of not less than one nor more than eight dollars, to be recovered in the same manner as other penalties imposed by this Act. C. S. U. C. c. 56, s. 9.

Fast driving over bridges forbidden.

**9.** If, while such notice continues up, any person rides or drives a horse or other beast of burden over such bridge at a pace faster than a walk, he shall incur the penalties imposed by this Act. C. S. U. C. c. 56, s. 10.

#### RECOVERY AND APPLICATION OF PENALTIES.

Penalty for contravening this Act.

**10.** In cases not otherwise specially provided for, if any person contravenes this Act, and such contravention is duly proved, by the oath of one credible witness, before any Justice of the Peace having jurisdiction within the locality where the offence has been committed, the offender shall incur a penalty of not

less than one dollar nor more than twenty dollars, in the discretion of such Justice, with costs. C. S. U. C. c. 56, s. 11.

**11.** If not paid forthwith, the penalty and costs shall be levied by distress and sale of the goods and chattels of the offender, under a warrant signed and sealed by the convicting Justice, and the overplus, if any, after deducting the penalty and costs and charges of sale, shall be returned, on demand, to the owner of such goods and chattels. C. S. U. C. c. 56, s. 12.

To be enforced  
by distress.

**12.** In default of payment of distress the offender shall, by warrant signed and sealed as aforesaid, be imprisoned in the Common Gaol for a period of not less than one day nor more than twenty days, at the discretion of the Justice, unless such fine, costs and charges are sooner paid. C. S. U. C. c. 56, s. 13.

Or by imprisonment.

**13.** No such fine or imprisonment shall be a bar to the recovery of damages by the injured party before any Court of competent jurisdiction. C. S. U. C. c. 56, s. 14.

Not to bar action for damages.

**14.** Every fine collected under this Act shall be paid to the Treasurer of the local Municipality or place in which the offence was committed, and shall be applied to the general purposes thereof. C. S. U. C. c. 56, s. 15.

Application penalties.

## CHAPTER 184.

### An Act exempting certain Vehicles, Horses and other Cattle from Tolls on Turnpike Roads.

#### Exemptions :

Volunteers, s. 1.

Persons going to Divine Service,  
s. 2.

Persons owning farms divided by

toll road, s. 3.

Persons drawing manure in certain cases, s. 4.

Act not to apply to certain bridges,  
s. 5.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Exemption  
from tolls in  
certain cases.

**1.** Officers, non-commissioned officers and men of the Volunteers, being in proper staff or regimental uniform, dress or undress, and their horses (but not when passing in any hired or private vehicle, unless when on duty or proceeding to or from the same), shall be exempt from the payment of any duty or toll on passing any turnpike or toll-gate, or any road, wharf or landing-place or bridge in this Province. 27 V. c. 3, s. 20.

Persons going  
to or returning  
from divine  
service ex-  
empted from  
toll.

**2.** All persons going to or returning from Divine service on any Sunday or obligatory holiday, in or upon and with their own carriages, horses or other beasts of draught, and also their families, and servants being in or upon and with such carriages, horses or other beasts of draught, shall pass toll-free through every turnpike or toll-gate on any turnpike road through which they may have occasion to pass, whether such turnpike road and the tolls thereon belong to the Province, or to any local or Municipal authority, or body of trustees or commissioners for local purposes, or to any incorporated or unincorporated Company, or to any other body or person. C. S. C. c. 86, s. 1.

Vehicles, cat-  
tle, &c., cross-  
ing roads when  
a farm divided  
by the road,  
exempt from  
toll—when.

**3.** No vehicle, laden or unladen, and no horses or cattle belonging to the proprietor or occupier of any lands divided by any turnpike road, shall be liable to toll on passing through any toll-gate on such road (at whatever distance the same may be from any City or Town) for the sole purpose of going from one part of the lands of such proprietor or occupier to another part of the same: Provided such vehicle, horses or cattle do not proceed more than half a mile along such turnpike road, either in going or in returning, and are using such road for farming or domestic purposes only. C. S. C. c. 86, s. 2.

Vehicles, &c.,  
laden with  
manure pass-  
ing from cities  
and towns ex-  
empt from toll.

**4.** Every vehicle laden solely with manure, brought from any City, Town or incorporated Village in this Province, and employed to carry manure into the country parts for the purposes of agriculture, and the horse or horses, or other beast of draught, drawing such vehicle, shall pass toll free through every turnpike-gate or toll-gate on any turnpike or macadamized road within twenty miles of such City, Town or incorporated Village, as well in going from such City, Town or incorporated Village, as in returning thereto, if the vehicle is then empty. C. S. C. c. 86, s. 3; 32 V. c. 40, s. 1.

This Act not  
to apply to  
certain  
bridges.

**5.** This Act shall not extend to any toll bridge, the tolls on which are vested in any person other than the Crown. C. S. C. c. 86, s. 4.



## CHAPTER 185.

## An Act respecting Double Tracks in Snow Roads.

Interpretation, s. 1.  
 County Council may pass by-law  
 for double track, s. 2.  
 Nature of tracks, s. 3.  
 Right of road, s. 4.  
 Duties and powers of path masters,  
 s. 5.

Powers of County Councils in de-  
 fault of Township Councils, s. 6.  
 Penalties :  
 Refusing to work under path-  
 master, s. 7.  
 Travelling in wrong track, s. 8.

**H**ER MAJESTY, by and with the advice and consent of  
 the Legislative Assembly of the Province of Ontario,  
 enacts as follows :—

**1.** In this Act, the word "Team" shall be taken to mean a vehicle drawn by one horse or other animal, or a greater number of horses or other animals, as the case may be. 36 V. c. 46, s. 8.

Interpretation  
 of the word  
 "team."

**2.** The County Council of each County may provide by by-law for the making of a double track, during the season of sleighing in each and every year, upon such public or leading roads within the County, whether County roads or not, as such Council deems advisable. 36 V. c. 46, s. 1.

County Coun-  
 cil may pass  
 by-laws for  
 making double  
 tracks on roads  
 during sleigh-  
 ing season.

**3.** Whenever a County Council has passed such a by-law, the double track to be made shall be so made that teams shall be able to pass without being obliged to turn out when meeting each other. 36 V. c. 46, s. 2.

Nature of  
 tracks.

**4.** The right hand track shall always be that in which a team shall be required to travel, and if any person is driving his team in the wrong track, it shall be his duty to leave the same whenever he meets another team rightfully entitled to use such track. 36 V. c. 46, s. 3.

Right of road.

**5.** A County Council may also provide by by-law that Path-masters appointed by Township Councils shall cause the roads on which double tracks are to be made to be kept open for travel within their respective Municipalities, or in the event of there being no such Path-masters available, may appoint Road-masters to perform that duty ; and such Path-masters or Road-

Duties and  
 powers of  
 path-masters  
 or road-mas-  
 ters.

masters shall have full power to call out persons liable to perform statute labour, to assist in keeping open such roads within their respective Municipalities, and may give to such persons as may be employed in so doing, certificates of having performed statute labour to the amount of the days' work done, and such work shall be allowed for to such persons in their next season's statute labour; and such County Council may also provide for the application by such Township Council of so much of the commutation of statute labour fund as may be necessary for the keeping open such roads as aforesaid within their respective Municipalities. 36 V. c. 46, s. 4.

If township refuse to make tracks, county may do so and impose a rate.

Rev. Stat. c. 180.

**6.** In the event of a Township Council neglecting or refusing to keep such roads open for travel as mentioned in the next preceding section of this Act, the County Council shall be entitled to do so, and to impose upon the Township so in default a rate sufficient for that purpose, and such rate shall be levied and collected in the manner provided by "*The Assessment Act*" as to the collection of County rates. 36 V. c. 46, s. 5.

Penalty for persons refusing to work under path-masters.

**7.** Any person who is liable to perform statute labour, and refuses or neglects to turn out and work under any Path-master or Road-master who warns him out for that purpose under the authority of this Act, shall be liable to a fine not exceeding twenty dollars, nor less than one dollar, over and above costs, and in case of non-payment, to imprisonment for a term not exceeding twenty-one days. 36 V. c. 46, s. 6.

Penalty for travelling on left hand track and refusing to turn out.

**8.** Any person travelling in the wrong or left hand track, and refusing or neglecting to leave the same when met by a person who is travelling therein with his team as of right, shall be liable to a penalty of not less than one dollar, nor more than twenty dollars, over and above the costs of prosecution, and in case of non-payment, to imprisonment for a term not exceeding twenty-one days. 36 V. c. 46, s. 7.

CHAPTER 186.

An Act to authorize and regulate the use of Traction Engines on Highways.

Traction Engines may be used on	Notice to toll-gate keepers, s. 11.
Highways, s. 1.	Subsequent proceedings, ss. 12-13.
Conditions :	Tolls leviable, s. 14.
Weight of engine, s. 2.	Arbitration in case of dispute,
Speed, s. 3	s. 14.
Width of wheels, s. 4.	Collection of tolls, s. 15.
Meeting and passing, ss. 5-6.	Penalty for contravening this Act,
Lights to be carried, s. 7.	s. 16.
In Cities and Towns, s. 8.	How enforced, ss. 17-18.
Exclusion from certain streets in	Appropriation of penalties, s. 19.
Cities and Towns, s. 9.	No bar to civil suit, s. 20.
Bridges on non-toll roads to be	Rev. Stat. c. 152, s. 2, made ap-
strengthened, s. 10.	plicable to Traction Engine
On toll roads :—	Cos., s. 21.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. It shall be lawful for any person to employ traction engines for the conveyance of freight and passengers, or both, over any public highway in this Province, subject to the provisions hereinafter contained. 31 V. c. 34, s. 1.

GENERAL CONDITIONS.

2. No traction engine, so employed, shall exceed in weight twenty tons. 31 V. c. 34, s. 2.

3. The speed of any traction engine shall at no time exceed the rate of six miles per hour, and in Cities, Towns and incorporated Villages, the rate of three miles per hour. 31 V. c. 34, s. 3.

4. The width of the driving wheels of all such engines shall be at least twelve inches, and the wheels of the trucks or waggons drawn thereby shall be four inches in width for the first two tons capacity, load and weight of truck included, and an additional half inch for each further ton. 31 V. c. 34, s. 5.

5. The provisions of *The Act to regulate Travelling on Public Highways and Bridges* shall be applicable to the running of any traction engine upon the highway. 31 V. c. 34, s. 6.



Horsemen or vehicles meeting or passing engine to stop.

**6.** In case of any difficulty, or the prospect of any difficulty in the meeting or passing of an engine upon the highway by any mounted horseman or vehicle, it shall be the duty of the engine driver to stop the engine, and in every reasonable way to assist such mounted horseman, or the person in charge of such vehicle, to pass the engine. 31 V. c. 34, s. 7.

Lights to be carried after dark.

**7.** Every engine run after dark shall carry a bright red light in a conspicuous place in front, and a green light on the rear of the train. 31 V. c. 34, s. 8.

#### IN CITIES AND TOWNS.

Running through a city, town, etc.

**8.** No engine shall be run through a City, Town or Village unless a messenger is sent at least fifteen and not more than thirty rods in advance, carrying a red flag by day and a bright red light by night. 31 V. c. 34, s. 9.

Traction engines may be excluded from certain streets, but not entirely from passing through a municipality.

**9.** In case the Municipal Corporation of any City or Town deems it necessary to exclude traction engines from the right to pass through any particular street or streets within the Municipality, it shall be lawful for such Corporation to apply to the Judge of the County Court of the County within which the Municipality is situated, and such Judge shall direct notice to be given to the owner of the engine, and upon the return of such notice may, in his discretion, make or refuse an order to prevent or regulate the running of engines upon certain streets: but it shall not be lawful under this section so to exclude the engines from any streets as entirely to prevent their passage through the Municipality by the then existing opened streets. 31 V. c. 34, s. 10.

#### BRIDGES TO BE STRENGTHENED.

Parties running engines to strengthen bridges, etc.

**10.** Before it shall be lawful to run such engines over any highway whereon no tolls are levied, it shall be the duty of the person or persons proposing to run the same to strengthen, at his or their own expense, all bridges and culverts to be crossed by such engines, and to keep the same in repair so long as the highway is so used.

Owners of different engines to contribute.

**2.** The costs of such repairs shall be borne by the owners of different engines in proportion to the number of engines run over such bridges or culverts. 31 V. c. 34, s. 4.

#### SPECIAL PROVISIONS AS TO TOLL ROADS.

Notice before use of toll roads.

**11.** Before it shall be lawful to run a traction engine over any highway upon which a toll is established, it shall be the duty of the person proposing to run the same, to leave a notice in writing to that effect with the keeper of any toll-gate on such road, at least two months previous to the running of such

engine, and such notice shall also contain a correct statement of the weight of the heaviest engine proposed to be used. 31 V. c. 34, s. 11.

**12.** The owner or owners of such toll roads, within two months after the delivery of such notice as aforesaid, and upon receiving security to the amount of the cost of required improvements, may cause all bridges and culverts upon the said road to be so strengthened as, in the opinion of the County Engineer of the County in which any such bridge or culvert is situated, to render the same safe for the constant passing of such engines. 31 V. c. 34, s. 12.

Owners of toll roads to strengthen bridges, &c.

**13.** In the event of the owners of such toll roads neglecting or refusing to comply with the requirements of the last preceding section, it shall be lawful for the parties about to run such engines themselves to do the necessary work at their own expense; such outlay to be repaid to them by the remission of tolls upon the passage of engines and trains through the gates upon such road, until the whole of such outlay is repaid.

If they do not, owners of engines may do the work, to be reimbursed out of tolls.

**2.** Such works shall be performed to the satisfaction of the County Engineer or other officer appointed for that purpose by the Municipality within which the highway or the greater part thereof is situated. 31 V. c. 34, s. 13.

Work to be done to satisfaction of County Engineer.

**14.** The owners of such toll roads may levy such tolls as may be imposed by them upon the passage of any engine or truck through every lawful gate; and if the owner of the engine is dissatisfied with the rate of toll, the same may be referred to the decision of three Arbitrators, one of whom shall be nominated by the owner of the engine, and one by the proprietors of the road, and the two so appointed shall choose a third, and the decision of the said Arbitrators or the majority of them shall be binding; and in the event of the two Arbitrators first appointed as aforesaid failing or neglecting within one month to appoint a third Arbitrator as herein provided, then the appointment of such third Arbitrator may be made by the County Judge of the County within which the said tolls are to be collected. 31 V. c. 34, s. 14.

Tolls.

Provision for arbitration.

**15.** It shall be lawful for the owners of any such road to enforce the payment of the aforesaid tolls in the manner provided by law for the collection of the ordinary tolls upon such roads. 31 V. c. 34, s. 15.

Collection of tolls.

#### PENALTIES.

**16.** If any person contravenes this Act, and such contravention is duly proved by the oath of one credible witness before any Justice of the Peace having jurisdiction within the locality where the offence has been committed, the offender shall in-

Penalty for contravening Act.

cur a penalty of not less than five dollars, nor more than twenty-five dollars, in the discretion of such Justice, with costs. 31 V. c. 34, s. 17.

To be enforced  
by distress.

**17.** If not paid forthwith, the penalty and costs shall be levied by distress and sale of the goods and chattels of the offender, under a warrant signed and sealed by the convicting Justice, and the overplus, if any, after deducting the penalty and costs and charges of sale, shall be returned, on demand, to the owner of such goods and chattels. 31 V. c. 34, s. 18.

Or by im-  
prisonment.

**18.** In default of payment or distress, the offender shall, by warrant signed and sealed as aforesaid, be imprisoned in the Common Gaol for a period of not less than one day nor more than twenty days, at the discretion of the Justice, unless such fine, costs and charges are sooner paid. 31 V. c. 34, s. 19.

Application of  
fines.

**19.** Every fine collected under this Act shall be paid to the Treasurer of the local Municipality in which the offence was committed, and shall be applied to the general purposes thereof. 31 V. c. 34, s. 21.

Recovery of  
damages.

**20.** No fine or imprisonment under this Act shall be a bar to the recovery of damages by the injured party before any Court of competent jurisdiction. 31 V. c. 34, s. 20.

Rev. Stat. c.  
152, s. 2, to  
apply.

**21.** Section two of "*The General Road Companies Act*" shall apply to Companies established for manufacturing or purchasing traction engines, and working the same. 31 V. c. 34, s. 16.

## CHAPTER 187.

### An Act to encourage the Planting of Trees along Highways.

"Highway" defined, s. 1.

Application of the Act in the case  
of cities and towns, s. 2.

Property in trees on highways, s. 3.

Planting trees, s. 4.

Injuring, trees, s. 5.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—



1. The word "highway," whenever it occurs in this Act, shall be held to mean and include any public highway, street, road, lane, alley, or other communication, as well as any public place or square. 34 V. c. 31, s. 6.

Interpretation of the word "highway."

2. Sections three and four of this Act shall not apply to incorporated Cities, Towns and Villages, unless the Council thereof first passes a by-law making the same apply thereto. 34 V. c. 31, s. 6.

By-law necessary to make this Act apply to cities and towns.

3. For the purpose of this Act, every shade tree, shrub and sapling now growing on either side of any highway in this Province shall, upon, from and after the passing of this Act, be deemed to be the property of the owner of the land adjacent to such highway opposite to which such tree, shrub or sapling is. 34 V. c. 31, s. 1.

Property of trees on highways vested in the owners of adjacent land.

4. Any person owning land adjacent to any highway may plant trees, shrubs or saplings on the portion thereof contiguous to his land; but no tree, shrub or sapling shall be so planted that the same is or may become a nuisance in the highway or obstruct the fair and reasonable use of the same.

Planting trees

5. Every tree, shrub or sapling so planted in any highway shall for the purposes of this Act be deemed to be the property of the owner for the time being of the land whose owner planted the same. 34 V. c. 31, s. 2.

Property in.

5. Any person who ties or fastens any animals to any such tree, shrub or sapling so growing or planted upon any highway, or who injures or destroys, or suffers or permits any animal in his charge to injure or destroy, or who removes any such shrub, tree or sapling, or receives the same knowing it to be so removed, shall, upon conviction thereof before a Justice of the Peace, forfeit and pay such sum of money not exceeding twenty-five dollars besides costs as such Justice may award, and in default of payment the same may be levied of the goods and chattels of the person offending, or such person may be imprisoned in the Common Gaol of the County within which the Municipality is, for a period not exceeding thirty days.

Injuring trees.

Penalty.

2. One-half of such fine shall go to the person laying the information, and the other half to the Municipality within which such tree, shrub or sapling was growing. 34 V. c. 31, s. 4.

Application of.

[See also Rev. Stat. c. 174, s. 454 (16).]

## CHAPTER 188.

## An Act to prevent the Spreading of Canada Thistles.

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Occupants of land to cut down Canada thistles every year before maturity, s. 1.	Municipal Clerks to notify Station Masters, s. 4.
Overseers of Highways :	Expenses of carrying out Act :
To carry out Act in their Highway Divisions, s. 2.	How paid to Overseer, ss. 5-6.
To notify land owners, s. 3.	Appeal against, s. 7.
And cut down thistles on default of owner, s. 3.	How recovered by Municipality, s. 8.
To enter on lands of Railway Co. after notice by Municipal Clerk, s. 4.	Penalties :
To return account of expenses to Municipal Council, ss. 5-6.	For selling seed of Canada Thistle, s. 9.
	For neglect of duty by Overseer, s. 10.
	How recoverable, s. 11.
	Application of, s. 11.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Occupants of land to cut down thistles growing on their lands.

Penalty.

1. It shall be the duty of every occupant of land to cut or cause to be cut down all the Canada thistles growing thereon, so often in each and every year as is sufficient to prevent them going to seed ; and if any owner, possessor or occupier of land knowingly suffers any Canada thistles to grow thereon and the seed to ripen so as to cause or endanger the spread thereof, he shall upon conviction be liable to a fine of not less than two nor more than ten dollars for every such offence. 29 V. e. 40, s. 1.

Duty of Overseers of Highways under this Act.

2. It shall be the duty of the Overseers of Highways in any Municipality, having first obtained authority from the Municipal Council of which they are officers, to see that the provisions of this Act are carried out within their respective highway divisions by cutting or causing to be cut all the Canada thistles growing on the highways or road allowances within their respective divisions. 29 V. e. 40, s. 2 ; 32 V. e. 41, ss. 1 & 2.

And notify owners.

3. Every such Overseer shall give notice in writing to the owner, possessor or occupier of any land within the said division whereon Canada thistles are growing and in danger of going to seed, requiring him to cause the same to be cut down within five days from the service of such notice.

2. In case such owner, possessor or occupier refuses or neglects to cut down the said Canada thistles within the period aforesaid, the said Overseer of Highways shall enter upon the land and cause such Canada thistles to be cut down with as little damage to growing crops as may be, and he shall not be liable to be sued in action of trespass therefor :

And enter lands on default.

3. But no such Overseer of Highways shall have power to enter upon or cut thistles on any land sown with grain, and where such Canada thistles are growing upon non-resident lands it shall not be necessary to give any notice before proceeding to cut down the same. 29 V. c. 40, s. 2.

Proviso as to lands sown with grain.

As to non-resident lands.

4. It shall be the duty of the Clerk of any Municipality in which Railway property is situated to give notice in writing to the Station Master of said Railway resident in or nearest to the said Municipality, requiring him to cause all the Canada thistles growing upon the property of the said Railway Company within the limits of the said Municipality to be cut down as provided for in the first section of this Act.

Clerks of Municipalities to warn station masters to cut down thistles on railways.

2. In case such Station Master refuses or neglects to have the said Canada thistles cut down within ten days from the time of service of the said notice, then the Overseers of Highways of the said Municipality shall enter upon the property of the said Railway Company and cause such Canada thistles to be cut down, and the expense incurred in carrying out the provisions of this section shall be provided for in the same manner as in the next following section of this Act. 29 V. c. 40, s. 3.

Overseer to enter on default.

5. Each Overseer of Highways shall keep an accurate account of the expense incurred by him in carrying out the provisions of the preceding sections of this Act with respect to each parcel of land entered upon therefor, and shall deliver a statement of such expenses, describing by its legal description the land entered upon, and verified by oath, to the owner, possessor, or occupier of such resident lands, requiring him to pay the amount.

Account of expenses to be kept by Overseer.

And delivered to occupant of resident lands.

2. In case such owner, possessor or occupier of such resident lands refuses or neglects to pay the same within thirty days after such application, the said claim shall be presented to the Municipal Council of the Corporation in which such expense was incurred, and the said Council is hereby authorized and required to credit and allow such claim, and order the same to be paid from the funds for general purposes of the said Municipality. 29 V. c. 40, s. 4.

If the owner refuses to pay.

Council to reimburse overseer.

6. The said Overseer of Highways shall also present to the said Council a similar statement of the expenses incurred by him in carrying out the provisions of this Act upon any non-

Expense in case of non-resident lands.



resident lands; and the said Council is hereby authorized and empowered to audit and allow the same in like manner. 29 V. c. 40, s. 4.

Appeal allowed.

**7.** If any owner, occupant or possessor, amenable under the provisions of this Act, deems such expense excessive, an appeal may be had to the said Council (if made within thirty days after delivery of such statement), and the said Council shall determine the matter in dispute. 29 V. c. 40, s. 4.

How expenses shall be recovered by municipality.

**8.** The Municipal Council of the Corporation shall cause all such sums as have been so paid under the provisions of this Act to be severally levied on the lands described in the statement of the Overseers of Highways, and to be collected in the same manner as other taxes; and the same when collected shall be paid into the treasury of the said Corporation to reimburse the outlay therefrom aforesaid. 29 V. c. 40, s. 5.

Penalty on sale of any seed mixed with thistle seed.

**9.** Any person who knowingly vends any grass or other seed among which there is any seed of the Canada thistle shall for every such offence, upon conviction, be liable to a fine of not less than two nor more than ten dollars. 29 V. c. 40, s. 6.

Penalty on Overseer neglecting his duty.

**10.** Every Overseer of Highways or other officer who refuses or neglects to discharge the duties imposed on him by this Act, shall be liable to a fine of not less than ten nor more than twenty dollars. 29 V. c. 40, s. 7.

Recovery of penalties.

**11.** Every offence against the provisions of this Act shall be punished, and the penalty hereby enforced for each offence shall be recovered and levied, on summary conviction, before any Justice of the Peace; and all fines imposed shall be paid into the treasury of the Municipality in which such conviction takes place. 29 V. c. 40, s. 8.

All Councils may authorize the carrying out of this Act.

**12.** Any Municipal Corporation in Ontario may authorize the carrying out of the provisions of this Act. 32 V. c. 41, s. 2.

[See also *Rev. Stat. c. 174, s. 461 (15).*]

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# 6 Public Morals.

CHAP. 189. - To prevent the Profanation of the Lord's Day, p. 373.

## CHAPTER 189.

An Act to prevent the Profanation of the Lord's Day.

Acts prohibited, ss. 1-6.	Imprisonment, s. 13.
Sales and purchases on Sunday void, s. 7.	Limitation of prosecutions, s. 14.
Penalty, s. 8.	Actions, etc., against Officers :—
Appropriation of, s. 9.	Limitation of, s. 15.
Summary Convictions :—	Notice of, s. 15.
Procedure, ss. 10-11.	Tender of amends, s. 16.
Defects of form, s. 12.	Costs, s. 16.
	Act not to apply to Indians, s. 17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. It is not lawful for any merchant, tradesman, artificer, mechanic, workman, labourer or other person whatsoever, on the Lord's day, to sell or publicly show forth, or expose, or offer for sale, or to purchase, any goods, chattels, or other personal property, or any real estate whatsoever, or to do or exercise any worldly labour, business or work of his ordinary calling (conveying travellers or Her Majesty's Mail, by land or by water, selling drugs and medicines, and other works of necessity and works of charity only excepted). C. S. U. C. c. 104, s. 1.

No sale to take place on Sunday.

Or ordinary work.  
Exception.

2. It is not lawful for any person on that day to hold, convene or to attend any public political meeting, or to tipple, or to allow or permit tippling in any inn, tavern, grocery or house of public entertainment, or to revel, or publicly exhibit himself in a state of intoxication, or to brawl or use profane language in the public streets or open air, so as to create any riot or disturbance, or annoyance to Her Majesty's peaceable subjects. C. S. U. C. c. 104, s. 2.

Political meetings, tippling, etc., prohibited on Sunday.

Games and  
amusements  
prohibited.

**3.** It is not lawful for any person on that day to play at skittles, ball, foot-ball, racket, or any other noisy game, or to gamble with dice or otherwise, or to run races on foot, or on horseback, or in carriages, or in vehicles of any sort. C. S. U. C. c. 104, s. 3.

Hunting and  
shooting.

**4.** Except in defence of his property from any wolf or other ravenous beast or a bird of prey, it is not lawful for any person on that day to go out hunting or shooting, or in quest of, or to take, kill or destroy, any deer or other game, or any wild animal, or any wild fowl or bird, or to use any dog, gun, rifle or other engine, net or trap, for the above mentioned purpose. C. S. U. C. c. 104, s. 4.

Fishing.

**5.** It is not lawful for any person on that day to go out fishing, or to take, kill or destroy any fish, or to use any gun, fishing rod, net or other engine for that purpose. C. S. U. C. c. 104, s. 5.

Bathing,

**6.** It is not lawful for any person on that day to bathe in any exposed situation in any water within the limits of any incorporated City or Town, or within view of any place of public worship, or private residence. C. S. U. C. c. 104, s. 6.

and  
agreements  
made on Sun-  
day to be void.

**7.** All sales and purchases, and all contracts and agreements for sale or purchase, of any real or personal property whatsoever, made by any person or persons on the Lord's day, shall be utterly null and void. C. S. U. C. c. 104, s. 8.

Penalty.

**8.** Any person convicted before a Justice of the Peace of any act hereinbefore declared not to be lawful, upon the oath or affirmation of one or more than one credible witness, or upon view had of the offence by the said Justice himself, shall for every such offence be fined in a sum not exceeding forty dollars, nor less than one dollar, together with the costs and charges attending the proceedings and conviction. C. S. U. C. c. 104, s. 7.

Application of  
penalties.

**9.** All sums of money awarded or imposed as fines or penalties, by virtue of this Act, shall be paid as follows, that is to say: one moiety thereof shall be paid to the party charging the offence in writing before the Justice, and the other moiety to the Treasurer of the County or City wherein the offence was committed, to be by him accounted for in the same manner as for other moneys deposited with or paid over to him. C. S. U. C. c. 104, s. 18.

Justice to sum-  
mon accused  
party.

**10.** Where any person has been charged upon oath or otherwise, in writing, before any Justice of the Peace, with any offence against this Act, the said Justice shall summon the person so charged to appear before him, at a time and place to be named in such summons, and if such person fails or neglects to



appear accordingly, then (upon proof of due service of the summons upon such person, by delivering or leaving a copy thereof at his house, or usual or last place of abode, or by reading the same over to him personally) the said Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself, or some other Justice of the Peace having jurisdiction within the same County or Municipality; and the Justice before whom the person charged appears or is brought, shall proceed to hear and determine the case, or the said Justice, on view of the offence, may verbally order, or if on the complaint of a third party, then may, in writing, order the offender to be at once committed (although it be on the Lord's day) to the Common Gaol of the place, or into other safe custody, there to remain until the morrow, or some other day, according to circumstances, until the case be heard and disposed of. C. S. U. C. c. 104, s. 9. Commitment.

**11** The Justice before whom any person is convicted of any offence against this Act, may cause the conviction to be drawn up in the form of the Schedule to this Act, or in any other form of words to the same effect as the case may require. C. S. U. C. c. 104, s. 10. Form of conviction.

**12.** A conviction under this Act shall not be quashed for want of form; nor shall any warrant of commitment be held void by reason of any defect therein, if it is therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the commitment. C. S. U. C. c. 104, s. 11. Conviction and commitment not to be void for want of form.

**13.** In default of payment of any fine imposed under this Act, together with the costs attending the same, within the period by the Justice of the Peace before whom such conviction takes place, specified for the payment thereof at the time of conviction, such Justice of the Peace (if he deems it expedient so to do) may issue his warrant, directed to any constable, to levy the amount of such fine and costs within a certain time, to be in the said warrant expressed; and in case no distress sufficient to satisfy the amount is found, he may commit the offender to the Common Gaol of the County wherein the offence was committed for any term not exceeding three months, unless the fine and costs are sooner paid. C. S. U. C. c. 104, s. 12. In default, may levy fine.

**14.** The prosecution for any offence punishable under this Act shall be commenced within one month after the commission of the offence, and not afterwards. C. S. U. C. c. 104, s. 13; 36 V. c. 10, s. 4. Limitation of time for prosecution.

**15.** All actions and prosecutions against any person for anything done in pursuance of this Act, shall be laid and tried in the County where the fact was committed, and shall be commenced within six months after the fact committed, and not Where actions &c., are to be tried.

Defendant  
may plead gen-  
eral issue.

afterwards; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the action, and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial had thereupon. C. S. U. C. c. 104 s. 16.

Tender of  
amends, &c.

**16.** No plaintiff shall recover in such action, if tender of sufficient amends is made before such action brought, or if a sufficient sum of money is paid into Court after such action brought by or on behalf of the defendant; and if a verdict passes for the defendant, or the plaintiff becomes non-suited, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment be given against the plaintiff, the defendant may recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases. C. S. U. C. c. 104, s. 17.

Defendant  
if successful  
to have full  
costs.

Not to extend  
to Indians.

**17.** This Act shall not extend to the people called Indians. C. S. U. C. c. 104, s. 19.

## SCHEDULE.

(Section 11.)

Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_, at \_\_\_\_\_, in the County of \_\_\_\_\_ (or at the City of \_\_\_\_\_ as the case may be), A. B., of \_\_\_\_\_ is convicted before me, C. D., one of Her Majesty's Justices of the Peace for the said County (or City as the case may be), for that he the said A. B. did (specify the offence, and the time and place when and where the same was committed, as the case may be); and I, the said C. D., adjudge the said A. B., for his offence to pay (immediately, or on or before the \_\_\_\_\_ day of \_\_\_\_\_) the sum of \_\_\_\_\_, and also the sum of \_\_\_\_\_ for costs; and in default of payment of the said sums respectively, to be imprisoned in the Common Gaol of the said County (or City, as the case may be) for the space of \_\_\_\_\_ months, unless the said sums are sooner paid: and I direct that the said sum of \_\_\_\_\_ (the penalty) shall be paid as follows, that is to say: one moiety thereof to the party charging the offence, and the other moiety to the Treasurer of the County (naming the one in which the offence was committed, or of the said City, as the case may be), to be by him applied according to the provisions of chapter one hundred and eighty-nine of "The Revised Statutes of Ontario," entitled, "An Act to prevent the Profanation of the Lord's Day."

Given under my hand and seal, the day and year first above mentioned.

C. D., J.P. [L. S.]

## 7. *Public Health.*

CHAP. 190.—Public Health Act, p. 377.

“ 191.—Vaccination and Inoculation, p. 385.

### CHAPTER 190.

#### An Act respecting the Public Health.

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| <p>Interpretation, s. 1.<br/>         Municipalities and Police Villages :<br/>           Who to be health officers of, s. 2.<br/>           Power to enter premises, s. 3.<br/>           And order cleansing of, s. 4.<br/>           And cleanse on default of owner or occupant, s. 5.<br/>           May order medical examination, s. 6.<br/>           When inhabitants of a house may be removed, ss. 6, 7.<br/>         Powers of Lieutenant-Governor :<br/>           Regulation of vessels, passengers and cargoes, s. 8.<br/>           Proclamation suspending sections 2-7, ss. 9-11.<br/>           Appointment of Central Board of Health, s. 12.<br/>           Dissolution of Board, s. 13.<br/>         Local Boards of Health :<br/>           Meeting may be called to nominate, s. 14.<br/>           Who may be appointed, s. 15.<br/>           When meeting must be called, s. 16.<br/>           When Lieutenant-Governor may appoint Local Board, s. 17.<br/>           Municipal Health Officers to act in the interim, s. 18.<br/>           How Local Board of Health dissolved, s. 19.<br/>         Powers of Central Board of Health :<br/>           To make regulations for preventing infection, ss. 20, 21.</p> | <p>To require Local Boards to carry out these regulations, s. 22.<br/>         And to compel removal of inhabitants of certain houses, s. 23.<br/>         When and how long such regulations shall be in force, s. 24.<br/>         Powers of Local Boards :<br/>           Same as those of Municipal Health Officers, under ss. 6 &amp; 7, s. 25.<br/>           Powers if orders disobeyed, s. 26.<br/>         Expenses of carrying out Act :<br/>           How to be defrayed, ss. 27, 28.<br/>         Proclamations and Regulations :<br/>           To be published in <i>Gazette</i>, ss. 29, 30.<br/>           And laid before Legislative Assembly, s. 30.<br/>           Certain municipal by-laws suspended thereby, s. 31.<br/>         Penalties and Prosecutions :<br/>           For disobedience or neglect of orders or regulations, s. 32.<br/>           For obstruction of officers, s. 32.<br/>           How recoverable, s. 32.<br/>           Committal of offender, s. 33.<br/>           Application of penalties, s. 34.<br/>           Conviction may be had though proclamation no longer in force, s. 35.<br/>           No proceedings to be quashed for want of form, s. 36.<br/>           Or removed by <i>certiorari</i>, s. 36.</p> |
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—



Interpretation. **1.** In this Act, the following words and expressions shall have the meaning hereinafter assigned to them respectively, unless such meaning is repugnant to or inconsistent with the context. that is to say:—

“Place.” “Place” shall mean and include a City, Town, Village, Township, or any other territorial division recognised or designated by law as a separate Municipality or municipal division, and shall also mean and include a Police Village;

“Street.” “Street” shall include every highway, road, square, row, lane, mews, court, alley, and passage, whether a thoroughfare or not. 36 V. c. 43, s. 36.

#### MUNICIPAL HEALTH OFFICERS.

Who shall and may be health officers. **2.** The members of the Municipal Council of every Township, City, Town and incorporated Village, and the Trustees of every Police Village shall be Health Officers within their respective Municipalities, under the next five sections of this Act; but any such Council may by by-law delegate the power of its members as such Health Officers to a committee of their own number, or to such persons, either including or not including one or more of themselves, as the Council thinks best. 36 V. c. 43, s. 6.

Health officers may enter and examine premises. **3.** The Health Officers of any Municipality or Police Village, or any two of them, may, in the day time, as often as they think necessary, enter into and upon any premises in the place for which they hold office, and examine such premises. 36 V. c. 43, s. 1.

Power to order cleansing. **4.** If upon such examination they find that the premises are in a filthy or unclean state, or that any matter or thing is there which, in their opinion, may endanger the public health, they or any two of them, may order the proprietor or occupant of the premises to cleanse the same and to remove what is so found there. 36 V. c. 43, s. 2.

Powers to officers to cleanse. **5.** Such Health Officers, in case the proprietor or occupier of the premises neglects or refuses to obey their directions, may call to their assistance all constables and any other persons they think fit, and may enter on the premises and cleanse the same, and remove therefrom and destroy what in their opinion it is necessary to remove or destroy for the preservation of the public health. 36 V. c. 43, s. 3.

Medical men may be authorized by the officers to examine. **6.** Such Health Officers or a majority of them may also, by warrant under their hands, authorize any two medical practitioners to enter in and upon any house, out-house, or premises in the day time for the purpose of making enquiry and examination with respect to the state of health of any person therein; and may also, upon the report of such medical practitioners in

writing recommending the same, cause any person found therein infected with a dangerously contagious or infectious disease to be removed to some hospital or other proper place; but no such removal shall take place unless the said medical practitioners state in their said report that such person can be removed without danger to life, and that such removal is necessary in order to guard against the spread of such disease to the adjoining house or houses. 36 V. c. 43, s. 5.

On report of medical men, persons infected may be removed.

7. Wherever a disease of a malignant and fatal character is discovered to exist in any dwelling-house or out-house temporarily occupied as a dwelling, in a City, Town, Village, or Township in Ontario, or within a mile thereof, and such house is situated in an unhealthy or crowded part of the City, Town, Village, or Township or adjoining country, or is in a filthy and neglected state, or is inhabited by too many persons, the Health Officers of the Municipality or a majority of them may, at the expense of the Municipality, compel the inhabitants of such dwelling-house or out-house to remove therefrom, and may place them in sheds or tents, or other good shelter, in some more salubrious situation, until measures can be taken under the direction and at the expense of the Municipality, for the immediate cleansing, ventilation, purification, and disinfection of such dwelling-house or out-house. 36 V. c. 43, s. 4.

When inhabitants of a house may be removed.

#### POWERS OF LIEUTENANT-GOVERNOR.

8. The Lieutenant-Governor in Council may make and declare such regulations concerning the entry or departure of boats or vessels at the different ports or places in Ontario, and concerning the landing of passengers or cargoes from such boats or vessels, or the receiving passengers or cargoes on board of the same, as may be thought best calculated to preserve the public health. 36 V. c. 43, s. 7.

Lieut.-Governor may regulate vessels, in port, and landing of passengers and cargoes.

9. Whenever this Province, or any part thereof, or place therein, appears to be threatened with any formidable epidemic, endemic, or contagious disease, the Lieutenant-Governor may, by proclamation, to be by him from time to time issued, by and with the advice and consent of the Executive Council, declare the subsequent sections of this Act to be in force in this Province, or in any part thereof or place therein, mentioned in such proclamation; and it shall thereupon be in force accordingly. 36 V. c. 43, s. 8.

When epidemic, &c., probable, Lieut.-Governor may proclaim following sections in force.

10. The Lieutenant-Governor may, in like manner, from time to time, as to all or any of the parts or places to which any such proclamation extends, revoke or renew any such proclamation; and subject to revocation and renewal, as aforesaid, every such proclamation shall have effect for six months, or for any shorter period in such proclamation expressed. 36 V. c. 43, s. 9.

Power to revoke, renew, and limit duration of proclamation.

On proclamation, sections two to seven suspended unless excepted.

**11.** Upon the issuing of any such proclamation, and whilst the same is in force, sections two to seven inclusive of this Act shall be suspended as to every place mentioned in such proclamation, or being within any part of this Province included thereby, unless it is by the said proclamation declared that such sections or any of them shall be continued in force. 36 V. c. 43, s. 10.

Central Board of Health, appointment of.

**12.** From time to time, after the issuing of any such proclamation, and whilst it is in force, the Lieutenant-Governor may, by commission under his hand and seal, appoint five or more persons, to be "The Central Board of Health," and also such officers and servants as he deems necessary to assist the Board: and the powers and duties of the said Board may be exercised and executed by any three members thereof; and during any vacancy in the said Board, the continuing members or member may act as if no vacancy had occurred. 36 V. c. 43, s. 11.

Powers and duties of, how exercised.

Commission appointing Central Board determined by revocation of proclamation.

**13.** Every such commission shall, *ipso facto*, be determined by the revocation of the proclamation under which it issued, as to all the places included in such proclamation, or by the expiration of six months from the date of such proclamation, or of any shorter period expressed in such proclamation as that during which it is to be in force, unless such proclamation is renewed as to all or some of such parts and places. 36 V. c. 43, s. 12.

#### LOCAL BOARDS OF HEALTH.

Meeting to nominate Local Board of Health.

**14.** From time to time, while any such proclamation is in force, the Mayor or other head of the Municipal Corporation, Inspecting Trustee or other chief municipal officer of any and every place mentioned in such proclamation, or included thereby, may call a special meeting of the Council or of the Police Trustees of such place, over which he presides, for the purpose of nominating a Local Board of Health. 36 V. c. 43, s. 13.

Local Board of Health, how appointed.

**15.** Such Municipal Corporation or Police Trustees shall nominate not less than three persons, resident within the limits of their respective jurisdictions (or in the case of a City, Town or Village, within seven miles thereof), to be "The Local Board of Health" for such place. 36 V. c. 43, s. 14.

Meeting to nominate Board of Health imperative on certain requisitions.

**16.** Such Mayor, or other head of such municipal corporation, Inspecting Trustee, or other chief municipal officer, shall call such special meeting within two days from the receipt of a written requisition to that effect, signed by ten or more inhabitants, householders of the place, under the jurisdiction of the body over which he presides, on pain of being personally liable to the penalty hereinafter mentioned. 36 V. c. 43, s. 15.

When Lieut.-Governor may appoint Local Board.

**17.** If at any time while any such proclamation is in force, it is certified to the Lieutenant-Governor, by any ten or more inhabitant householders of any place included in such procla-



mation, that the Mayor or other head of such Municipal Corporation, or Inspecting Trustee, or other chief municipal officer of such place, has failed to comply with such requisition, within such time as aforesaid, or that such Council or Trustees have failed to nominate a Local Board, the Lieutenant-Governor in Council may forthwith appoint not less than three persons, resident within the limits of such place (or in the case of a City, Town or Village, within seven miles thereof), to be the Local Board of Health for such place. 36 V. c. 43, s. 16.

**18.** Until a Local Board of Health is appointed under the provisions of the three preceding sections, the Health Officers of the Municipality shall exercise and perform the powers, authorities and duties of the Local Board, in conformity with the regulations of the Central Board, and shall act in every respect as if they were a Local Board of Health appointed under the fifteenth section of this Act. 36 V. c. 43, s. 17.

Till appointment of local board, health officers may act as such.

**19.** Every nomination or appointment of a Local Board of Health under the fifteenth or seventeenth sections of this Act shall, *ipso facto*, be determined by the revocation as to the place within the limits of which such Local Board is authorized to act, or as to any place in which it is included, or as to the whole Province, of the proclamation under which such Local Board was appointed, or by the expiration of six months from the date of such proclamation, or of any shorter period expressed in such proclamation as that during which it is to be in force, unless such proclamation is renewed as to such place, or any place in which it is included, or as to the whole Province. 36 V. c. 43, s. 18.

Appointment of local board, when determined by revocation of Commission.

#### POWERS OF CENTRAL BOARD OF HEALTH.

**20.** The Central Board of Health, or any three or more members thereof, may from time to time issue such regulations as they think fit, for the prevention, as far as possible, or the mitigation of such epidemic, endemic or contagious diseases, and may revoke, renew or alter any such regulations, or substitute such new regulations, as to them or any three of them appear expedient. 36 V. c. 43, s. 19.

Power of Central Board to make regulations to prevent infection &c.

**21.** The said Board may, by such regulations, provide,

Powers of Central Board as to regulations,

1. For the frequent and effectual cleansing of streets by the Road Surveyors or Overseers of Highways and others, entrusted with the care and management thereof, or by the owners or occupiers of houses and tenements adjoining thereto ;

2. For the cleansing, purifying, ventilating and disinfecting of houses, dwellings, railway stations, churches, buildings, and places of assembly, steamboats, railway carriages and cars, and other public conveyances, by the owners and occupiers, and persons having the care and ordering thereof ;

3. For the removal of nuisances ;

4. For the speedy interment of the dead ;

5. For preventing or mitigating such epidemic, endemic or contagious diseases, in such manner as to the said Central Board seems expedient. 36 V. c. 43, s. 20.

Power to Central Board to require Local Board to execute their regulations, etc.

**22.** The said Central Board may by any such regulations authorize and require the Local Boards of Health to superintend and see to the execution of any such regulations ; and (where it appears that there may be default or delay in the execution thereof, by want or neglect of such Surveyors, Overseers, or others entrusted as aforesaid, or by reason of poverty of occupiers or otherwise) to execute or aid in executing the same within their respective limits ; and to provide for the dispensing of medicine and for affording to persons afflicted by or threatened with such epidemic, endemic, or contagious diseases, such medical aid as may be required ; and to do and provide all such acts, matters and things as are necessary for superintending or aiding in the execution of such regulations, or for executing the same as the case may require. 36 V. c. 43, s. 21.

And to remove inmates of certain houses.

**23.** The Central Board of Health may also by any such regulations authorize and require the Local Boards of Health, in all cases in which diseases of a malignant and fatal character, are discovered to exist in any dwelling-house, or out-house temporarily occupied as a dwelling, situate in an unhealthy or crowded locality, or being in a neglected or filthy state, at the proper costs and charges of such Local Boards of Health to compel the inhabitants of any such dwelling-house or out-house, to remove therefrom and to place them in sheds or tents, or other good shelter, in some more salubrious situation, until measures can be taken by and under the directions of the Local Boards of Health, for the immediate cleansing, ventilation, purification and disinfection of the said dwelling-house or out-house. 36 V. c. 43, s. 22.

Regulations, extent of locality to which applicable.

**24.** The directions and regulations to be issued as aforesaid shall extend to all parts or places in which this Act is, for the time being, in force, under any such proclamation as aforesaid, unless such regulations are expressly confined to some of such parts or places, and then to such parts or places as in such directions and regulations are specified, and (subject to the power of revocation and alteration herein contained) shall continue in force so long as this Act is in force under such proclamation in the parts or places to which such regulations extend. 36 V. c. 43, s. 23.

#### POWERS OF LOCAL BOARDS OF HEALTH.

Members of Local Boards to be health officers.

**25.** The members of the said Local Boards of Health shall be called Health Officers ; and any two or more of them acting in

the execution of any such regulations as aforesaid, may exercise the like powers and authorities as are conferred upon Health Officers by sections six and seven of this Act. 36 V. c. 43, s. 24.

**26.** In case the owner or occupier of any dwelling or premises neglects or refuses to obey the orders given by such Health Officers, in pursuance of such regulations, such Health Officers may call to their assistance all Constables and peace officers, and such other persons as they think fit, and may enter into such dwelling or premises, and execute the same or cause to be executed therein such regulations, and remove therefrom and destroy whatsoever, in pursuance of such regulations it is necessary to remove and destroy for the preservation of the public health. 36 V. c. 43, s. 25.

Powers of officers if their orders disobeyed.

#### MISCELLANEOUS PROVISIONS.

**27.** The expenses incurred by the said Central Board of Health shall be defrayed out of any moneys appropriated by the Legislature for that purpose; and the expenses incurred by the said Local Boards of Health in the execution or in superintending the execution of the regulations of the Central Board, shall be defrayed and provided for in the same manner and by the same means as expenses incurred by the Municipal Corporations, having jurisdiction over the respective places for which such Local Boards of Health were appointed, are by law required to be defrayed and provided for. 36 V. c. 43, s. 26.

Expenses of central and local boards, how defrayed

**28.** The Treasurer of the Municipality shall forthwith upon demand pay out of any moneys of the Municipality in his hands the amount of any order given by the members of the Local Board, or any two of them, for services performed under their direction by virtue of this Act. 36 V. c. 43, s. 27.

Any two members of local board may order municipal treasurer to pay.

**29.** Every proclamation of the Lieutenant-Governor in Council under this Act shall be published in the *Ontario Gazette*; and no direction or regulation of the said Central Board of Health shall have any force or effect until it has been confirmed by the Lieutenant-Governor in Council, and has thereafter been published in the *Ontario Gazette*. 36 V. c. 43, s. 28.

Proclamation to be published. Regulations of central board invalid till confirmed and published.

**30.** Such publication of any such proclamation or regulation shall be conclusive evidence of the proclamation or regulation so published, and of the confirmation of such regulation as aforesaid, and of the dates thereof respectively to all intents and purposes; and every such proclamation and regulation shall forthwith upon the issuing thereof be laid before the Legislative Assembly, if it is then sitting, and if not, within the fourteen days next after the commencement of the next Session thereof. 36 V. c. 43, s. 29.

Publication to be evidence of certain facts.

Regulations and proclamation to be laid before Legislative Assembly.

**31.** Upon the publication of any such regulations as aforesaid, and whilst they continue in force, all by-laws of the Muni-

On publication of regula-



tions contain  
municipal by-  
laws coasso.

municipal Corporation of any place to which such regulations or any of them relate, made for preserving the inhabitants thereof from contagious diseases, or for any other of the purposes for which such regulations are by this Act required to be issued, shall become and be suspended. 36 V. c. 43, s. 30.

#### PENALTIES AND PROSECUTIONS.

Penalty for  
disobedience  
of orders of  
officers and  
regulations.

**32.** Any person who wilfully disobeys or resists any lawful order of the Health Officers, or wilfully obstructs any person acting under the authority or employed in the execution of this Act either before or after the appointment of a Central Board of Health, or wilfully violates any regulations made and declared by the Lieutenant-Governor in Council or issued by the Central Board of Health under this Act, or neglects or refuses to comply with such regulations, or with the requirements of this Act in any manner whatsoever, shall be liable for every such offence to a penalty not exceeding twenty dollars, to be recovered by any person before any two Justices or a Police Magistrate, and to be levied by distress and sale of the goods and chattels of the offender, with the costs of such distress and sale by warrant, under the hands and seals of the Justices, or hand and seal of the Police Magistrate, before whom the same are recovered, or under the hands and seals of any other two Justices. 36 V. c. 43, s. 31.

Committal of  
offender.

**33.** If it appears to the satisfaction of such Justices or Police Magistrate before or after the issuing of their or his warrant, either by the confession of the offender or otherwise, that he has not goods and chattels within their or his jurisdiction sufficient to satisfy the amount, they or he may commit him to any Gaol, Lock-up or House of Correction for any time not exceeding fourteen days, unless the amount is sooner paid, in the same manner as if a warrant of distress had issued, and a return of *nulla bona* had been made thereon. 36 V. c. 43, s. 32.

Penalties to be  
payable to  
municipality.

**34.** All penalties whatever, recovered under this Act, shall be paid to the Treasurer of the Municipality in which such penalties have been incurred, for the use of the Municipality. 36 V. c. 43, s. 33.

Offences may  
be prosecuted  
though pro-  
clamation no  
longer in force.

**35.** All offences committed against this Act while the same is in force in this Province, or in any part thereof, shall be prosecuted, and the parties committing the same, convicted and punished therefor as herein provided, as well after as during the time that such proclamation or proclamations are in force. 36 V. c. 43, s. 34.

No proceeding  
to be quashed  
for want of  
form, or be re-  
movable into  
Superior  
Court.

**36.** No order or any other proceeding, matter or thing done or transacted in, or relating to the execution of this Act shall be vacated, quashed or set aside for want of form or be removed or removable by *certiorari*, or other writ or process whatsoever, into any of the Superior Courts. 36 V. c. 43, s. 35.

## CHAPTER 191.

## An Act respecting Vaccination and Inoculation:

## Hospitals, etc.:

To keep vaccine matter on hand,  
s. 1.

And set apart a small-pox ward, s.  
3.

Otherwise not to receive public  
moneys, ss. 2,3.

Annual report to Legislature, s.  
4.

## Councils of Cities:

To provide for free vaccination, s.  
5.

And appoint a place therefor in  
every Ward, s. 6.

## Duties of Parents:

To have child vaccinated within  
three months after birth, s. 7.

And exhibit it to vaccinator eight  
days afterwards, s. 8.

## And of Vaccinator:

Certificate of vaccination to be  
given to parent, s. 9.

And sent to City Clerk, s. 10.

If child found unfit for vaccina-  
tion, s. 10.

If child not susceptible of vaccine  
disease, s. 11.

Fees for vaccination, s. 12.

## Penalties:

For not having child vaccinated,  
s. 13.

Plea of previous convictions, s. 14.

For inoculating with variolous  
matter, C. S. C. c. 39, s. 1.

If offender a medical man, license  
forfeited, s. 15.

But may be restored, s. 15.

HER MAJESTY, by and with the advice and consent of  
the Legislative Assembly of the Province of Ontario,  
enacts as follows :

1. The Trustees, Governors, Directors, or other officers or  
persons having at any time the control and management of any  
Hospital or Dispensary receiving aid from the public funds  
of this Province, shall keep at all times in such Hospital or Dis-  
pensary an adequate supply of vaccine matter for the following  
purposes, viz.:

Trustees, &c,  
of Hospitals to  
keep vaccine  
matter for cer-  
tain purposes.

*First.*—For the vaccination, by a legally qualified medical  
practitioner attached to such Hospital or Dispensary, at the  
expense of the same, of all poor persons, and at their own  
expense of all other persons, who attend at such Hospital or  
Dispensary for that purpose, during one day in every week ;  
the fee to be charged for such vaccination not in any case to  
exceed fifty cents, and to be used and applied for the benefit  
of the Hospital or Dispensary ;

For the vac-  
cination of the  
poor.

Fee.

How applid. .

*Second.*—For the purpose of furnishing, on application, to  
each and every legally qualified medical practitioner, such

For furnishing  
legally quali-

reasonable quantities of the said matter as he from time to time requires ;

For the use of  
the Indians.

*Third.*—For the purpose of furnishing, on application, to the Superintendent-General of Indian Affairs, or his Assistant, or to any Visiting Superintendent of Indian Affairs, such reasonable quantities of the said matter as he may from time to time require for the use and benefit of any settlement of Indians. C. S. C. c. 39, s. 3.

No warrant  
for the pay-  
ment of money  
to issue to any  
Hospital un-  
less it has a  
sufficient  
quantity of  
vaccine matter  
on hand, &c.

**2.** No warrant shall hereafter issue for the payment of any sum of money granted by the Legislature to any Hospital or Dispensary, unless a certificate has been filed in the office of the Clerk of the Executive Council, signed by a medical officer of such Hospital or Dispensary, to the effect that there is actually on hand in such Hospital or Dispensary a supply of vaccine matter which is expected to be sufficient for the purposes aforesaid from the date of such certificate, or setting forth reasons and grounds in explanation of any deficiency in such supply to the satisfaction of the Lieutenant-Governor in Council, nor unless nor until a certificate, signed as aforesaid, to the effect that at no time since the date of the then last certificate in this behalf, has the demand upon such Hospital or Dispensary for such matter for the purposes aforesaid, exceeded the supply thereof on hand in such Hospital or Dispensary, or setting forth reasons and grounds in explanation of any deficiency of such supply, to the satisfaction of the Lieutenant-Governor in Council, has been filed as aforesaid. C. S. C. c. 39, s. 4.

No public mo-  
ney to be paid  
to any Hospi-  
tal unless it  
has a small  
pox ward.

**3.** No warrant shall issue for the payment of any sum of money granted by the Legislature to any Hospital, unless a certificate has been filed with the Clerk of the Executive Council, signed by a medical officer of such Hospital to the effect that there is in such Hospital a distinct and separate ward set apart for the exclusive accommodation of patients afflicted with small pox. 24 V. c. 24, s. 1.

Annual stato-  
ment to be  
laid before  
Legislature  
respecting  
vaccination.

**4.** The Trustees, Governors, Directors, or other officers or persons having for the time being the control and management of any Hospital or Dispensary to which aid has been granted during any Session of the Legislative Assembly of this Province, shall cause to be transmitted to the Lieutenant-Governor, through the Provincial Secretary, in time to admit of copies thereof being laid before the Legislative Assembly, during the first fifteen days of the then next Session, a statement certified by the proper officers of such Hospital or Dispensary, shewing the number of persons who have applied for and received free vaccination, the number of persons who have applied for and received vaccination at their own expense, and the number, amount and application of fees charged and received for vaccination. C. S. C. c. 39, s. 5.



## SPECIAL PROVISIONS AS TO CITIES.

5. It shall be lawful for the Council of every City now being or which may hereafter be in this Province, and they are hereby respectively empowered and required, to contract with some legally qualified and competent medical practitioner or practitioners, for the period of one year, and so from year to year, as such contract expires, for the vaccination, at the expense of the City, of all poor persons, and, at their own expense, of all other persons, resident in such City, who come to such medical practitioner or practitioners for that purpose.

Certain cities may employ medical practitioners to vaccinate the citizens, &c.

2. It shall be a condition of every such contract, that the amount of the remuneration to be received under the same shall depend on the number of persons who, not having been previously successfully vaccinated, are successfully vaccinated by such medical practitioner or medical practitioners, respectively so contracting. 24 V. c. 24, s. 2; 40 V. c. 7, *Sched. A* (203).

Remuneration to depend on success.

6. The Council of each such City shall appoint a convenient place in each Ward of such City for the performance, at least once in each month, of such vaccination, and shall take effectual means for giving, from time to time, to all persons resident within each such Ward, due notice of the days and hours at which the medical practitioner or one of the medical practitioners contracted with for such purpose will attend, once at the least in each month, at such place, to vaccinate all persons not successfully vaccinated who may then appear there, and also of the days and hours at which such medical practitioner will attend at such place to inspect the progress of such vaccination in the persons so vaccinated. 24 V. c. 24, s. 3.

City to appoint a convenient place in each ward for the purpose.

7. The father or mother of every child born in any such City, shall, at some such appointed time, within three calendar months after the birth of such child, or in the event of the death, illness, absence, or inability of the father and mother, then the person who has the care, nurture or custody of the child, shall at some such appointed time, within four calendar months after the birth of such child, take or cause to be taken, the said child to the medical practitioner in attendance at the appointed place in the Ward in which the said child is resident, according to the provisions of the preceding sections of this Act, for the purpose of being vaccinated, unless such child has been previously vaccinated by some legally qualified medical practitioner and the vaccination duly certified; and the said medical practitioner so appointed, shall, and he is hereby required, thereupon, or as soon after as it can conveniently and properly be done, vaccinate the said child. 24 V. c. 24, s. 4.

Parents, &c., bound to take children to be vaccinated.

8. Upon the eighth day following the day on which any child has been vaccinated as aforesaid, the father or mother, or

And exhibit them to the medical prac-

tionor on the eighth day. other person having the care, nurture or custody of the said child as aforesaid, shall again take or cause to be taken the said child to the medical practitioner by whom the operation was performed, or other similarly appointed medical practitioner in attendance as aforesaid, in order that such medical practitioner may ascertain by inspection the result of such operation. 24 V. c. 24, s. 5.

Certificate of successful vaccination to be given.

9. Upon and immediately after the successful vaccination of any child born in any such City, the medical practitioner who performed the operation shall deliver to the father or mother, or other person having the care, nurture or custody of said child as aforesaid, a certificate under his hand, according to the form of Schedule A to this Act, that the said child has been successfully vaccinated, and shall also transmit a duplicate of the said certificate to the Clerk of the City in which the operation was performed.

What to be evidence of.

2. Such certificate shall, without further proof, be admissible as evidence of the successful vaccination of such child in any information or complaint brought against the father or mother of such child, or against the person who has had the care, nurture or custody of such child as aforesaid, for non-compliance with the provisions of this Act. 24 V. c. 24, s. 6.

If the child be found unfit for vaccination.

10. If any medical practitioner appointed as aforesaid is of opinion that any child brought to him as aforesaid is not in a fit and proper state to be successfully vaccinated, he shall deliver to the father or mother of such child, or the person having the care, nurture or custody of such child as aforesaid on demand and without fee or reward, a certificate under his hand, according to the form of Schedule B to this Act, that the child is in an unfit state for successful vaccination.

Certificate.

How long to be in force.

2. Such certificate, or any similar certificate of a legally qualified medical practitioner, respecting any child born as aforesaid, shall remain in force for two months from its delivery as aforesaid; and the father or mother of the said child, or the person having the care, nurture or custody of the said child as aforesaid, shall, (unless they have within each succeeding period of two months obtained from a legally qualified medical practitioner a renewal of such certificate) within two months after the delivery of the said certificate as aforesaid, and if said child is not vaccinated at or by the termination of such period of two months, then during each succeeding period of two months until such child has been successfully vaccinated, take or cause to be taken to the said medical practitioner, so appointed as aforesaid, such child to be vaccinated by him; and if the said medical practitioner deems the said child to be then in a fit and proper state for such successful vaccination, he shall forthwith vaccinate it accordingly, and shall, upon or immediately after the successful vaccination of such child, deliver to the father or mother of such

Re-presentation of the child to be repeated until successful vaccination.

Certificate.

child, or the person having the care, nurture or custody of such child as aforesaid, a certificate under his hand, according to the form of Schedule A to this Act, that such child has been successfully vaccinated; but if the said medical practitioner is of opinion that the said child is still in an unfit state for successful vaccination, then he shall again deliver to the father or mother of such child, or to the person having the care, nurture or custody of such child, as aforesaid, a certificate under his hand, according to the form of Schedule B to this Act, that the child is still in an unfit state for successful vaccination, and the said medical practitioner, so long as such child remains in an unfit state for vaccination and unvaccinated, shall, at the expiration of every succeeding period of two months, deliver, if required, to the father or mother of such child, or to the person having the care, nurture or custody of such child, a fresh certificate under his hand, according to the form of Schedule B of this Act.

3. The production of such certificate or of any similar certificate from any legally qualified medical practitioner, shall be a sufficient defence against any complaint brought against the father or mother, or person having the care, nurture or custody of such child, for non-compliance with the provisions of this Act. 24 V. c. 24, s. 7. Effect of certificate.

11. In the event of any medical practitioner employed under the provisions of this Act, or any other duly qualified medical practitioner being of opinion that any such child as aforesaid, that has been vaccinated by him, is insusceptible of the vaccine disease, he shall deliver to the father or mother of such child, or to the person having, as aforesaid, the care, nurture or custody of such child, a certificate under his hand, according to the form of Schedule C to this Act; and the production of such certificate shall be a sufficient defence against any complaint which may be brought against the father or mother, or person having the care, nurture or custody of such child, for non-compliance with the provisions of this Act. 24 V. c. 24, s. 8. If the child is found insusceptible of vaccine disease.

12. In all contracts to be made under the provisions of this Act, the sums contracted to be paid shall not be more than twenty-five cents for every person successfully vaccinated, including all or any of the certificates required by this Act. 24 V. c. 24, s. 9. Fees under this Act.

13. If any father or mother, or person so having as aforesaid the care, nurture or custody of any such child as aforesaid, does not cause such child to be vaccinated within the periods prescribed by this Act, or does not, on the eighth day after the vaccination has been performed, take or cause to be taken such child for inspection, according to the provisions in this Act respectively contained, then such father or mother, or person having the care, nurture or custody of such child as aforesaid, so offending, shall be liable to a penalty not exceeding five dol- Penalty for non-compliance with the requirements of this Act.



**Recovery.** lars, recoverable on summary conviction before the Police Magistrate for the City in which the offence was committed, or if there is no such officer, then before any two Justices of the Peace sitting and having jurisdiction in such City.

**Rev. Stat. c. 74.** 2. The provisions of *The Act respecting Summary Convictions before Justices of the Peace*, shall be applicable to the recovery of such penalties. 24 V. c. 24, s. 10.

**How far and when plea of conviction shall avail.** 14. After the expiration of two months from the conviction of any person for an offence against this Act, in respect of any child, no plea of such conviction shall be a sufficient defence against any complaint which may then be brought against the same or any other person for non-compliance with the provisions of this Act in respect of the same child.

2. The production of a certificate in the form of Schedule A or C, under the hand of a legally qualified medical practitioner, shall be a sufficient defence against any such complaint; but the production of a certificate in the form of Schedule B shall not be a sufficient defence, unless the vaccination is thereby postponed to a day subsequent to that on which the complaint is brought. 24 V. c. 24, s. 11.

**The license of the person contravening C. S. C. c. 39, s. 1, to become null.** 15. If any person licensed to practise Medicine, Surgery, or Midwifery in this Province, is convicted of an offence against the first section of chapter thirty-nine of the Consolidated Statutes of Canada, entitled "*An Act respecting Inoculation and Vaccination*," the license of such person in that behalf shall thereby become null and void and of no effect, and such person shall, from and after the date of such conviction, be liable to the same penalty in the event of his practising Medicine, Surgery, or Midwifery in Ontario, as he would have been liable to for so doing if he had never been licensed to practise the same; but it shall be lawful for the Lieutenant-Governor, on the certificate of the College of Physicians and Surgeons of Ontario, at any time after the expiration of the term of imprisonment of any such person so convicted as aforesaid, again to license such person to practise Medicine, Surgery, and Midwifery as aforesaid, and thereupon and thereafter such person shall no longer be liable to any fine or penalty for so doing. C. S. C. c. 39, s. 2.

**Proviso: license may be renewed, &c.**

[Section 1 of C. S. C. c. 39, is as follows:—

**Penalty against persons inoculating with variolous matter.** 15. Any person producing or attempting to produce, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article or thing impregnated with variolous matter, or wilfully, by any other means whatsoever, the disease of small pox in any person in this Province, shall be liable to be proceeded against and convicted summarily before any two Justices, and for every such offence shall, upon conviction, be imprisoned for any term not exceeding one month. 16 V. c. 170, s. 1.]

SCHEDULE "A."

(Sections 9, 10, and 14.)

CERTIFICATE OF VACCINATION.

I, the undersigned, hereby certify that \_\_\_\_\_, the child of \_\_\_\_\_, aged \_\_\_\_\_, of \_\_\_\_\_ Ward, in the City of \_\_\_\_\_, has been successfully vaccinated by me

(Signed,) \_\_\_\_\_ A. B.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

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SCHEDULE "B."

(Sections 10 and 14.)

CERTIFICATE OF UNFITNESS FOR VACCINATION.

I, the undersigned, hereby certify that I am of opinion that \_\_\_\_\_, the child of \_\_\_\_\_, of \_\_\_\_\_ Ward, in the City of \_\_\_\_\_, aged \_\_\_\_\_, is not now in a fit and proper state to be successfully vaccinated, and I do hereby postpone the vaccination until the \_\_\_\_\_ day of \_\_\_\_\_

(Signed,) \_\_\_\_\_ A. B.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

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SCHEDULE "C."

(Sections 11 and 14.)

CERTIFICATE OF INSUSCEPTIBILITY TO VACCINE DISEASE.

I, the undersigned, hereby certify that I am of opinion that \_\_\_\_\_ the child of \_\_\_\_\_, of \_\_\_\_\_ Ward, in the City of \_\_\_\_\_, is insusceptible of the vaccine disease.

(Signed,) \_\_\_\_\_ A. B.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

## 8, *Protection of the Person.*

CHAP. 192.—Egress from Public Buildings, p. 392.

“ 193.—Prevention of Accidents from Threshing Machines, p. 393.

### CHAPTER 192.

#### An Act to regulate the means of Egress from Public Buildings.

Doors of public buildings to open outwards, s. 1.	Penalties, s. 3.
Liability of Corporations not conforming to this Act, s. 2.	Officers to enforce this Act, ss. 4, 5.
	Act not to apply to convents, &c., s. 6.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Doors of churches, etc., to be hung so as to open outwards.

1. In all churches, theatres, halls or other buildings heretofore or hereafter constructed or used for holding public meetings, or for places of public resort or amusement, all the doors shall be so hinged that they may open freely outwards, and all the gates of outer fences, if not so hinged, shall be kept open by proper fastenings during the time such buildings are publicly used, to facilitate the egress of people, in case of alarm from fire or other cause. 29-30 V. c. 22, s. 1.

Congregations incorporated and trustees holding for congregations under Rev. Stat. c. 216, and rectors, &c., holding under 3 Vict., c. 74, liable for neglecting the provisions of this Act.

2. Congregations possessing corporate powers, and all trustees holding churches or buildings used for churches under *The Act respecting the property of Religious Institutions*, and incumbents and churchwardens holding churches, or buildings used for churches, under the Act of the Parliament of the late Province of Upper Canada, passed in the third year of the reign of Her Majesty, Queen Victoria, chapter seventy-four, intituled “*An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned.*” and all other persons holding churches or buildings used for churches, under any other Act, shall be severally liable as trustees for such societies or congregations, to the provisions of this Act. 29-30 V. c. 22, s. 3 (2).



**3.** Individuals, companies and corporations owning or possessing public halls, churches or other buildings used for public meetings, who violate the provisions of this Act, shall be liable to a fine not exceeding fifty dollars, recoverable on information before any two of her Majesty's Justices of the Peace, or before the Mayor or Police Magistrate of any City or Town; one moiety of such fine shall be paid to the party laying the information, and the other moiety to the Municipality within which the case arises: and parties so complained against shall be liable to a further fine of five dollars for every week succeeding that in which the complaint is laid, if the necessary changes are not made. 29-30 V. c. 22, s. 3 (1).

Individuals, companies and corporations liable to fine for neglecting the provisions of this Act.

**4.** In Cities, Towns and incorporated Villages, it shall be the duty of the High Bailiff, Chief Constable, or Chief of Police, to enforce the provisions of this Act, and such officers neglecting the performance of such duties shall be liable to a fine not exceeding fifty dollars, recoverable in the manner and before the Justices of the Peace, and payable to the parties mentioned in the third section of this Act. 29-30 V. c. 22, s. 6.

Duties of municipal officers.

**5.** County and Township Municipalities may, by by-law, appoint an officer to enforce the provisions of this Act. 29-30 V. c. 22, s. 7.

Officer to enforce this Act

**6.** This Act shall not be construed to apply to convents or private chapels connected therewith. 29-30 V. c. 22, s. 8

Not to apply to convents.

[See also *Rev. Stat.* c. 174, s. 454 (11).]

# CHAPTER 193.

An Act to require the Owners of Threshing and other Machines to guard against Accidents.

Machinery to be protected by guards, s. 1.	Application of penalties, s. 4.
Penalty for infringement of this Act, ss. 2, 3.	Limitation of prosecutions, s. 5.
	Defects of form in convictions, s. 6.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Certain machines to be so protected as to prevent injury to persons near them.

**1.** All persons owning or running any threshing machine, wood-sawing or other machine, which is connected to a horse-power by means of a tumbling rod or line of shafting, shall cause each of the knuckles, couplings or joints and jacks of such tumbling rod or line of shafting to be safely boxed or secured while running, with wood, leather or metal covering, in such manner as to prevent injury to persons passing over or near such tumbling rod, and the knuckles, couplings or joints and jacks thereof; and shall cause all oiling cups attached to arbors or journals to which driving belts are attached, to be furnished with tubes of tin or other material, which shall extend above the belts in such manner as shall prevent damage from oiling when the machine is in motion; and shall further cause a driver's platform to be placed on any horse-power used for driving machinery, of such size as to cover the gearing constituting said horse-power, and in such manner as to prevent accident arising to any person from contact with said gearing. 37 V. c. 12, s. 1.

Penalty for non-compliance with provisions of this Act.

**2.** Any person or persons owning or running any threshing, wood sawing or other machine, connected to a horse power by means of a tumbling rod or line of shafting, who neglect or refuse to comply with the provisions of this Act, shall on summary conviction, on information or complaint before one or more Justices of the Peace, be liable to a fine of not less than one dollar nor more than twenty dollars, over and above the costs of prosecution, and in default of payment of such fine and costs, the offender shall be imprisoned in the nearest Common Gaol for a period of not less than two or more than twenty days, at the discretion of such Justice or Justices of the Peace. 37 V. c. 12, s. 2.

No action for services rendered if provisions of this Act are not complied with.

**3.** No action shall be maintained, nor shall any legal liability exist for services rendered by or with any machine, such as is mentioned in the first section of this Act, when it is made to appear that the said section has not been complied with. 37 V. c. 12, s. 3.

Disposition of fines.

**4.** All fines imposed and collected under this Act shall be paid, one half to the complainant or prosecutor, and the other half to the Treasurer of the School Section in which the offence was committed, for the use of the Public School in such Section. 37 V. c. 12, s. 4, *part*.

Proceedings to be commenced within thirty days.

**5.** All proceedings against any person for any violation of the first section of this Act shall be commenced within thirty days after the commission of the offence. 37 V. c. 12, s. 4, *part*.

Convictions defective in form.

**6.** No conviction under this Act shall be annulled or vacated for any defect in the form thereof, or for any omission or informality in any summons or other proceeding under this Act, so long as no substantial injustice results therefrom. 37 V. c. 12, s. 5.

## 9. *Protection of Property.*

- CHAP. 194.—Tax on Dogs and the protection of Sheep, p. 395.  
 “ 195.—Pounds and the duties of Pound-keepers, p. 400.  
 “ 196.—Investigation of accidents by Fire, p. 405.  
 “ 197.—To provide for the filling up or otherwise shutting off the water flowing into abandoned Oil Wells, p. 408.  
 “ 198.—Line Fences, p. 409.  
 “ 199.—Ditching Water-courses, p. 416.

### CHAPTER 194.

#### An Act to impose a Tax on Dogs and for the Protection of Sheep.

##### Tax on Dogs:

To be levied annually, s. 1.  
 Unless dispensed with by County by-law, s. 2.

But may be restored in any Township by by-law, s. 2.

Duties of Assessors, s. 3.

Duties of owners of dogs, s. 4.

Duties of Collectors, ss. 5,6.

Non-tax paying dogs may be ordered to be destroyed, s. 6.

Moneys collected to form a fund for paying damages to sheep, s. 7.

Unless County Council otherwise declares by by-law, s. 8.

Which may be repealed and re-enacted, s. 9.

##### Protection of Sheep:

Dogs pursuing sheep may be destroyed, s. 10.

General issue by statute pleadable in such case, s. 11.

Dogs accustomed to worry sheep may be destroyed. Procedure, ss. 12-14.

Besides civil remedy for damages, s. 15.

By action or summary proceedings, s. 16.

Proof of defendant's knowledge unnecessary, s. 16.

Dogs worrying sheep to be destroyed on notice to owner, s. 17.

When Municipal Council to pay for damage to sheep, ss. 18,19.

Claim thenceforth to belong to the Municipality, s. 20.

No claim if sheep running at large, s. 21.

Civil remedy for damages when dog tax dispensed with, s. 22.

Fees to magistrates under this Act, s. 23.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

##### TAX ON DOGS.

1. Subject to the provisions of the next section, there shall be levied annually, in every Municipality in Ontario, upon the owner of each dog therein, an annual tax of one dollar for each dog, and two dollars for each bitch. 32 V. c. 31, s. 2.

Annual tax on dogs.



Unless dispensed with by County by-law.

**2.** In case the Council of any County or Union of Counties deems it advisable to dispense with the levy of the said tax, it shall be lawful for such Council to declare by by-law that the said tax shall not be levied in any of the Municipalities within its jurisdiction.

Tax may be restored by Township by-law.

**2.** Immediately upon the passing of any such County by-law the Council shall cause its Clerk to transmit a copy of the same to the Assessor or Assessors of every Municipality within its jurisdiction; and the County by-law shall have effect within every such Municipality, unless the Council thereof by by-law declares this Act to be in force therein, whereupon the said County by-law shall not apply to or have any effect within such Municipality. 32 V. c. 31, s. 2; 39 V. c. 30, s. 1.

Duty of assessors herein.

**3.** The Assessor or Assessors of every Municipality within which this Act has not been dispensed with, as provided in the foregoing section, shall, at the time of making their annual assessment, enter on the assessment roll, in a column prepared for the purpose, opposite the name of every person assessed, and also opposite the name of every resident inhabitant not otherwise assessed, being the owner or keeper of any dog or dogs, the number by him or her owned or kept. 32 V. c. 31, s. 3. *See Rev. Stat. c. 180, s. 12 (4), & Sched. B.*

Duty of owners of dogs.

**4.** The owner or keeper of any dog shall, when required by the Assessor or Assessors, deliver to him or them, in writing, the number of dogs owned or kept, whether one or more; and for every neglect or refusal to do so, and for every false statement made in respect thereof, shall incur a penalty of five dollars, to be recovered with costs before any Justice of the Peace for the Municipality, 32 V. c. 31, s. 4.

Penalty.

Tax entered on collector's roll.

**5.** The Collector's roll of the Municipality shall contain the name of every person entered on the assessment roll as the owner or keeper of any dog or dogs, with the tax hereby imposed, in a separate column; and the Collector shall proceed to collect the same, and at the same time and with the like authority, and make returns to the Treasurer of the Municipality, in the same manner, and subject to the same liabilities in all respects for paying over the same to the Treasurer, as in the case of other taxes levied in the Municipality. 32 V. c. 31, s. 5.

Proceedings where collector has failed to collect taxes from parties assessed for dogs.

**6.** In cases where parties have been assessed for dogs, and the Collector has failed to collect the taxes authorized by this Act, he shall report the same under oath to any Justice of the Peace, and such Justice shall, by an order under his hand and seal, to be served by any duly qualified constable, require such dogs to be destroyed by the owner or owners thereof; and if such owner or owners neglect or refuse to obey the said order, he or they shall be liable to the penalty, to be recovered in

Penalty.

the same way and manner as provided in section sixteen of this Act; and in case any Collector neglects to make the aforesaid report within the time required for paying over the taxes levied in the Municipality, he shall be liable to a penalty of ten dollars and costs, to be recovered in the same manner as provided in section sixteen of this Act. 32 V. c. 31, s. 13. Penalty.

7. The money collected and paid to the Clerk or Treasurer of any Municipality under the preceding sections, shall constitute a fund for satisfying such damages as arise in any year from dogs killing or injuring sheep or lambs in such Municipality; and the residue, if any, shall form part of the assets of the Municipality for the general purposes thereof; but when it becomes necessary, in any year for the purpose of paying charges on the same, the fund shall be supplemented to the extent of the amount which has been applied to the general purposes of the Municipality. 32 V. c. 31, s. 6. Tax to form fund for damages, etc.

8. In case the Council of any County or Union of Counties deems it advisable that the tax by this Act established should be maintained, but that the application of the proceeds thereof by this Act provided should be dispensed with, it shall be lawful for such Council by by-law to declare, that such application shall be dispensed with; and thereafter, during the continuance of such by-law, the clauses of this Act numbered six, seven, and sixteen to twenty-two inclusive shall have no force or effect in any of the Municipalities within the jurisdiction of such Council; and the moneys collected and paid to the Clerk or Treasurer of any such Municipality, under the remaining clauses of this Act, shall be the property of such Municipality, and shall be subject to its disposition in like manner as other local taxes. 32 V. c. 31, s. 17. Provision for cases in which council maintains taxes, but does not apply proceeds thereof.

9. The Council of any County or Union of Counties shall by them have power, from time to time, to repeal any by-law passed under the authority of this Act, and to enact or re-enact any by-law authorized by this Act. 32 V. c. 31, s. 18. County council may repeal by-laws passed under Act.

#### PROTECTION OF SHEEP.

10. Any person may kill any dog which he sees pursuing, worrying or wounding any sheep or lamb. 27 V. c. 20, s. 1; 32 V. c. 31, s. 11. Dogs seen worrying sheep may be killed.

11. The defendant in any action of damages for killing a dog under the circumstances in the preceding section mentioned, may plead the general issue and give this Act and the special matter in evidence. 27 V. c. 20, s. 7. Plea to action for killing a dog.

12. On complaint made in writing on oath before any Justice of the Peace for any City, Town or County or Union of Persons owning dogs addicted to

worrying may be summoned before a Justice of the Peace.

Counties, that any person residing in such City, Town or County, or Union of Counties, owns or has in his possession a dog which has within six months previous worried and injured or destroyed any sheep, such Justice of the Peace may issue his summons, directed to such person, stating shortly the matter of such complaint, and requiring such person to appear before him, at a certain time and place therein stated, to answer to such complaint, and to be further dealt with according to law. 27 V. c. 20, s. 2.

Proceedings, how regulated.

Rev. Stat. c. 74.

**13.** The proceedings on such complaint and summons shall be regulated by *The Act respecting Summary Convictions before Justices of the Peace*, which shall apply to cases under this Act. 27 V. c. 20, s. 3.

On conviction of the fact, dog to be ordered to be destroyed and owner fined.

**14.** In case any person is convicted, on the oath of a credible witness, of owning or having in his possession a dog which has worried and injured or destroyed any sheep, the Justice of the Peace may make an order for the killing of such dog (describing the same according to the tenor of the description given in the complaint and in the evidence) within three days, and in default thereof may in his discretion impose a fine upon such person, not exceeding twenty dollars with costs; and all penalties imposed under this section shall be applied to the use of the Municipality in which the defendant resides. 27 V. c. 20, s. 4.

Conviction no bar to action for damages.

**15.** No conviction under this Act shall be a bar to any action by the owner or possessor, as aforesaid, of any sheep for the recovery of damages for the injury done to such sheep, in respect of which such conviction is had. 27 V. c. 20, s. 5.

Extent of liability of owner or keeper of dog.

Rev. Stat. c. 74.

**16.** The owner of any sheep or lamb killed or injured by any dog shall be entitled to recover the damage occasioned thereby from the owner or keeper of such dog, by an action for damages or by summary proceedings before a Justice of the Peace, on information or complaint before such Justice, who is hereby authorized to hear and determine such complaint, and proceed thereon in the manner provided by *The Act respecting Summary Convictions before Justices of the Peace*, in respect to proceedings therein mentioned; and such aggrieved party shall be entitled so to recover on such action or proceedings, whether the owner or keeper of such dog knew or did not know that it was vicious or accustomed to worry sheep. 27 V. c. 20, s. 6; 32 V. c. 31, s. 7.

Dogs known to worry sheep to be killed by owner.

**17.** The owner or keeper of any dog or dogs, to whom notice is given of any injury done by his dog or dogs to any sheep or lamb, or of his dog or dogs having chased or worried any sheep or lamb, shall, within forty-eight hours after such notice, cause such dog or dogs to be killed; and for every neglect so to do he shall forfeit a sum of two dollars and fifty cents for every

Penalty.



such dog, and a further sum of one dollar and twenty-five cents for each such dog for every forty-eight hours thereafter, until the same is killed—if it is proved to the satisfaction of the Justice of the Peace before whom proceedings are taken for the recovery of such penalties, that such dog or dogs has or have worried or otherwise injured such sheep or lamb: but no such penalties shall be enforced in case it appears to the satisfaction of such Justice of the Peace that it was not in the power of such owner or keeper to kill such dog or dogs. 32 V. c. 31, s. 12.

Proviso.

Proviso.

**18.** In case the owner of any sheep or lamb so killed or injured proceeds against the owner or keeper of the dog that committed the injury, before a Justice of the Peace, as provided by this Act, and is unable on the conviction of the offender, to levy the amount ordered to be paid, for want of sufficient distress to levy the same, then the Council of the Municipality in which the offender resided at the time of the injury shall order their Treasurer to pay to the aggrieved party the amount ordered to be paid by the Justice under such conviction, saving and excepting the costs of the proceedings before such Justice and before the Council. 32 V. c. 31, s. 9.

Provision for cases where there is a conviction, but distress insufficient.

**19.** The owner of any sheep or lamb killed or injured by any dog, the owner or keeper of which is not known, may, within three months, apply to the Council of the Municipality in which such sheep or lamb was so killed or injured, for compensation for the injury; and if such Council (any member of which shall be competent to administer an oath or oaths in examining parties in the premises) is satisfied that the aggrieved party has made diligent search and inquiry to ascertain the owner or keeper of such dog, and that such owner or keeper cannot be found, they shall award to the aggrieved party for compensation a sum not exceeding two-thirds of the amount of the damage sustained by him; and the Treasurer of such Municipality shall pay over to him the amount so awarded. 32 V. c. 31, s. 8.

Provision for cases in which owner of dog not known.

**20.** After the owner of such sheep or lamb has received from the Municipality any money under either of the preceding sections, his claim shall thenceforth belong to such Municipality; and they may enforce the same against the offending party for their own benefit, by any means or form of proceeding that the aggrieved party was entitled to take for that purpose, but in case such Municipality recovers from the offender more than they had paid to the aggrieved party, besides their costs, they shall pay over the excess to such aggrieved party for his own use. 32 V. c. 31, s. 10.

After compensation paid by municipality, claims to belong to them.

Proviso.

**21.** The owner of any sheep or lamb killed or injured while running at large upon any highway or unenclosed land, shall have no claim under this Act to obtain compensation from any Municipality. 32 V. c. 31, s. 15.

Cases where owner of sheep, etc., has no compensation.

Liability of  
dog owner to  
sheep owner  
where tax not  
imposed.

**22.** If the Council of any County or Union of Counties, by by-law, decides to dispense with the levy of the aforesaid tax in the Municipalities within its jurisdiction, the owner of any sheep or lamb to the contrary may notwithstanding sue the owner or keeper of any dog or dogs for the damage or injury done by the said dog or dogs to the said sheep or lamb; and the same shall be recovered in the way and manner provided by section sixteen of this Act. 32 V. c. 31, s. 14.

Fees and re-  
turns by  
Justices.

**23.** Every Justice of the Peace shall be entitled to charge such fees in cases of prosecutions or orders under this Act as it is lawful for him to charge in other cases within his jurisdiction; and he shall make the returns usual in cases of conviction, and also a return in each case to the Clerk of the Municipality, whose duty it shall be to enter the same in a book to be kept for that purpose. 32 V. c. 31, s. 16.

## CHAPTER 194.

### An Act respecting Pounds.

Act to be in force unless superseded by municipal by-law, s. 1.	If animal not impounded, s. 12.
Land-owner or occupant liable for damage by animals under his charge, s. 2.	Contents of, s. 13.
What animals may be impounded, s. 3.	Pound-keeper to feed impounded animals, s. 14.
Where, if pound not safe, s. 4.	And may recover allowance therefor, s. 15.
Statement of damage and security to be furnished to pound-keeper s. 5.	By summary proceedings, s. 16.
When distrainer may himself detain the animal, s. 6.	Or by sale of animal, ss. 17, 18.
Notice to owner, in such case, s. 7.	Application of surplus, s. 18.
Or to Township Clerk if owner unknown, s. 8.	If damages disputed, s. 19.
Duty of Clerk thereon, s. 9.	Fence viewers to arbitrate, s. 20.
Notice in newspaper, when, s. 10.	And certify award to pound-keeper, s. 21.
Notice of sale—	Penalties:
If animal impounded, s. 11	For neglecting to feed impounded animals, s. 22.
	For neglect of duty by fence viewers, s. 23.
	How to be recovered, s. 24.
	Application of, s. 25.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Until varied or other provisions are made by by-laws Act may be passed under the authority of section four hundred and sixty-three of "*The Municipal Act*," this Act shall be in force in every Township, City, Town, and incorporated Village in Ontario. 29-30 V. c. 51, s. 355. superseded by by-laws under Rev. Stat. c. 174, s. 463.

2. The owner or occupant of any land shall be responsible for any damage or damages caused by any animal or animals under his charge and keeping, as though such animal or animals were his own property, and the owner of any animal not permitted to run at large by the by-laws of the Municipality shall be liable for any damage done by such animal, although the fence enclosing the premises was not of the height required by such by-laws. 29-30 V. e. 51, s. 355 (1). Liability for damage done.

3. If not previously replevied, the Pound-keeper shall impound any horse, bull, ox, ewe, sheep, goat, pig, or other cattle, geese or any other poultry, distrained for unlawfully running at large, or for trespassing and doing damage, delivered to him for that purpose by any person resident within his division who has distrained the same; or if the owner of any geese or other poultry refuses or neglects to prevent the same from trespassing on his neighbours' premises after a notice in writing has been served upon him of their trespass, then the owner of such poultry may be brought before any Justice of the Peace and fined such sum as the Justice directs. 29-30 V. c. 51, s. 355 (2). What animals to be impounded. Poultry.

4. When the common pound of the Municipality or place wherein a distress has been made is not secure, the Pound-keeper may confine the animal in any enclosed place within the limits of the Pound-keeper's division within which the distress was made. 29-30 V. e. 51, s. 355 (3). When the common pound is not safe.

5. The owner of any animal impounded shall at any time be entitled to his animal, on demand made therefor, without payment of any poundage fees, on giving satisfactory security to the Pound-keeper for all costs, damages and poundage fees that may be established against him, but the person distraining and impounding the animal shall, at the time of such impounding, deposit poundage fees, if such are demanded, and within twenty-four hours thereafter deliver to the Pound-keeper duplicate statements in writing of his demands against the owner for damages (if any), not exceeding twenty dollars, done by such animal, exclusive of such poundage fees, and shall also give his written agreement (with a surety if required by the Pound-keeper) in the form following, or in words to the same effect:

"I (or we, as the case may be) do hereby agree that I (or we) will pay to the owner of the (describing the animal) by me (A. B.) this day impounded, all costs to which the said owner may be put in case the distress by me the said A. B. proves to be illegal, or in case the claim for damages now put in by me the said A. B. fails to be established."

29-30 V. c. 51, s. 355 (4). Form of agreement with pound-keeper.



If the animal  
is of a certain  
kind.

**6.** In case the animal distrained is a horse, bull, ox, cow, sheep, goat, pig or other cattle, and if the same is distrained by a resident of the Municipality for straying within his premises, such person, instead of delivering the animal to a Pound-keeper, may retain the animal in his own possession, provided he makes no claim for damages done by the animal, and duly gives the notices hereinafter in that case required of him. 29-30 V. c. 51, s. 355 (5).

If the owner  
is known.

**7.** If the owner is known to him, he shall forthwith give to the owner notice in writing of having taken up the animal. 29-30 V. c. 51, s. 355 (6).

If unknown,  
notice to clerk  
of municipi-  
pality.

**8.** If the owner is unknown to the person taking up and retaining possession of the animal, such person shall, within forty-eight hours, deliver to the Clerk of the Municipality a notice in writing of having taken up the animal, and containing a description of the colour, age and natural and artificial marks of the animal, as near as may be. 29-30 V. c. 51, s. 355 (7).

Duty of clerk  
thereon.

**9.** The Clerk, on receiving such notice, shall forthwith enter a copy thereof in a book to be kept by him for that purpose, and shall post the notice he receives, or copy thereof, in some conspicuous place on or near the door of his office, and continue the same so posted for at least one week, unless the animal is sooner claimed by the owner. 29-30 V. c. 51, s. 355 (8).

If the animals  
are worth \$10  
or over,

**10.** If the animal or any number of animals taken up at the same time is or are of the value of ten dollars or more, the distrainer shall cause a copy of the notice to be published in a newspaper in the County, if one is published therein, and if not, then in a newspaper published in an adjoining County, and to be continued therein once a week for three successive weeks. 29-30 V. c. 51, s. 355 (9).

Notice of sale.

**11.** In case an animal is impounded, notices for the sale thereof shall be given by the Pound-keeper or person who impounded the animal within forty-eight hours afterwards, but no pig or poultry shall be sold till after four clear days, nor any horse or other cattle till after eight clear days from the time of impounding the same. 29-30 V. c. 51, s. 355 (10).

When sale  
may be made.

If animal is  
not impound-  
ed, but re-  
tained.

**12.** In case the animal is not impounded, but is retained in the possession of the party distraining the same, if the animal is a pig, goat or sheep, the notices for the sale thereof shall not be given for one month, and if the animal is a horse or other cattle, the notices shall not be given for two months after the animal is taken up. 29-30 V. c. 51, s. 355 (11).

Notice of sale  
unless re-  
deemed.

**13.** The notices of sale may be written or printed, and shall be affixed and continued for three clear successive days, in three public places in the Municipality, and shall specify the time and

place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf, paying the penalty imposed by law (if any), the amount of the injury (if any) claimed or decided to have been committed by the animal to the property of the person who distrained it, together with the lawful fees and charges of the Pound-keeper, and also of the Fence-viewers (if any); and the expenses of the animal's keeping. 29-30 V. c. 51, s. 355 (12).

**14.** Every Pound-keeper, and every person who impounds or confines, or causes to be impounded or confined, any animal in any common pound or in any open or close pound, or in any enclosed place, shall daily furnish the animal with good and sufficient food, water and shelter, during the whole time that such animal continues impounded or confined. 29-30 V. c. 51, s. 355 (13). Keeper to feed impounded cattle.

**15.** Every such person who furnishes the animal with food, water and shelter, may recover the value thereof from the owner of the animal, and also a reasonable allowance for his time, trouble and attendance in the premises. 29-30 V. c. 51, s. 355 (14). And may recover the value.

**16.** The value or allowance as aforesaid may be recovered, with costs, by summary proceeding before any Justice of the Peace within whose jurisdiction the animal was impounded, in like manner as fines, penalties or forfeitures for the breach of any by-law of the Municipality may by law be recovered and enforced by a single Justice of the Peace; and the Justice shall ascertain and determine the amount of such value and allowance when not otherwise fixed by law, adhering, so far as applicable, to the tariff of Pound-keepers' fees and charges established by the by-laws of the Municipality. 29-30 V. c. 51, s. 355 (15). In what manner such value may be recovered.

**17.** The Pound-keeper, or person so entitled to proceed, may, instead of such summary proceeding, enforce the remuneration to which he is entitled in manner hereinafter mentioned. 29-30 V. c. 51, s. 355 (16). Other mode of enforcing.

**18.** In case it is by affidavit proved before one of the Justices aforesaid, to his satisfaction, that all the proper notices had been duly affixed and published in the manner and for the respective times above prescribed, then if the owner or some one for him does not within the time specified in the notices, or before the sale of the animal, replevy or redeem the same in manner aforesaid, the Pound-keeper who impounded the animal, or if the person who took up the animal did not deliver such animal to any Pound-keeper, but retained the same in his own possession, then any Pound-keeper of the Municipality may publicly sell the animal to the highest bidder, at the time and place mentioned in the aforesaid Sale, how effected, &c.; and purchase money, how applied.

notices, and after deducting the penalty and the damages (if any) and fees and charges, shall apply the produce in discharge of the value of the food and nourishment, loss of time, trouble and attendance so supplied as aforesaid, and of the expenses of driving or conveying and impounding or confining the animal, and of the sale and attending the same, or incidental thereto, and of the damage when legally claimable (not exceeding twenty dollars,) to be ascertained as aforesaid, done by the animal to the property of the person at whose suit the same was distrained, and shall return the surplus (if any) to the original owner of the animal, or if not claimed by him within three months after the sale, the Pound-keeper shall pay such surplus to the Treasurer of and for the use of the Municipality. 29-30 V. c. 51, s. 355 (17).

Disputes regarding such demand, how determined.

**19.** If the owner, within forty-eight hours after the delivery of such statements, as provided in the fifth section, disputes the amount of the damages so claimed, the amount shall be decided by the majority of three Fence-viewers of the Municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the Pound-keeper. 29-30 V. c. 51, s. 355 (18).

Fence-viewers to view and appraise damage.

**20.** Such Fence-viewers or any two of them shall, within twenty-four hours after notice of their appointment as aforesaid, view the fence and the ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the statutes or by-laws in that behalf at the time of the trespass; and if it was a lawful fence, then they shall appraise the damages committed, and, within twenty-four hours after having made the view, shall deliver to the Pound-keeper a written statement signed by at least two of them of their appraisal, and of their lawful fees and charges. 29-30 V. c. 51, s. 355 (19).

Proceedings where fence-viewers decide against the legality of a fence.

**21.** If the Fence-viewers decide that the fence was not a lawful one, they shall certify the same in writing under their hands, together with a statement of their lawful fees to the Pound-keeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof, but if not claimed, or if such fees and charges are not paid, the Pound-keeper, after due notice, as required by this Act, shall sell the animal in the manner before mentioned at the time and place appointed in the notices. 29-30 V. c. 51, s. 355 (21).

Liability of pound-keeper refusing to feed animal impounded.

**22.** In case any Pound-keeper or person who impounds or coo fines, or causes to be impounded or confined, any animal as aforesaid, refuses or neglects to find, provide and supply the animal with good and sufficient food, water and shelter as aforesaid, he shall, for every day during which he so refuses or neglects, forfeit a sum not less than one dollar nor more than four dollars. 29-30 V. c. 51, s. 355 (22).



**23.** Any Fence-viewer neglecting his duty as arbitrator as aforesaid, shall incur a penalty of two dollars, to be recovered for the use of the Municipality, by summary proceedings before a Justice of the Peace upon the complaint of the party aggrieved, or the Treasurer of the Municipality. 29-30 V. c. 51, s. 355 (20). Penalty for neglect of duty by fence-viewers.

**24.** Every fine and penalty imposed by this Act may be recovered and enforced, with costs, by summary conviction, before any Justice of the Peace for the County, or of the Municipality in which the offence was committed; and, in default of payment, the offender may be committed to the Common Gaol, House of Correction, or Lock-up House of such County or Municipality, there to be imprisoned for any time, in the discretion of the convicting and committing Justice, not exceeding fourteen days, unless such fine and penalty, and costs, including the costs of the committal, are sooner paid. 29-30 V. c. 51, s. 355 (23). Recovery and enforcement of penalties.  
Imprisonment in default of payment.

**25.** When not otherwise provided, every pecuniary penalty recovered before any Justice of the Peace under this Act shall be paid and distributed in the following manner: one moiety to the City, Town, Village or Township in which the offence was committed, and the other moiety thereof, with full costs, to the person who informed and prosecuted for the same, or to such other person as to the Justice seems proper. 29-30 V. c. 51, s. 355 (25). Application of penalties.

## CHAPTER 196.

### An Act respecting the investigation of Accidents by Fire.

When investigation to be held, s. 1.	those already vested in Coroner, s. 6.
Power of Coroner as to evidence, s. 2.	
As to empanelling a jury, s. 3.	Allowance to Coroner, s. 7.
As to attendance of witnesses, s. 4.	By whom payable, s. 8.
As to jurors, s. 5.	Municipality, when liable for, s. 9.
These powers are in addition to	Costs of adjournments, when allowed, s. 10.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

**1.** Whenever any fire has occurred, whereby any house or other building has been wholly or in part consumed, the Coroner to inquire into the origin of fires.

oner within whose jurisdiction the locality is situated, shall institute an inquiry into the cause or origin of such fire, and whether it was kindled by design, or was the result of negligence or accident, and act according to the result of such inquiry. C. S. C. c. 88, s. 1.

Such inquiry not to take place except under certain circumstances.

2. But it shall not be the duty of the Coroner to institute an inquiry into the cause or origin of any fire or fires by which any house or other building has been wholly or partly consumed, nor shall such inquiry be had, until it has first been made to appear to such Coroner that there is reason to believe that such fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as in the interests of justice and for the due protection of property require an investigation. C. S. C. c. 88, s. 3.

Evidence to be taken on oath.

2. For the purpose of such investigation, such Coroner shall summon and bring before him all persons whom he deems capable of giving information or evidence touching or concerning such fire, and shall examine such persons on oath, and shall reduce their examinations to writing, and return the same to the Clerk of the Peace for the District or County within which they have been taken. C. S. C. c. 88, s. 2.

Jury may be empanelled in certain cases.

3. The Coroner may in his discretion, or in conformity with the written requisition of any agent of an Insurance Company, or of any three householders in the vicinity of any such fire, empanel a jury chosen from among the householders resident in the vicinity of the fire, to hear the evidence that may be adduced touching or concerning the same, and to render a verdict under oath thereupon in accordance with the facts. C. S. C. c. 88, s. 4.

Coroner may enforce attendance of witnesses.

4. If any person summoned to appear before any Coroner acting under this Act, neglects or refuses to appear at the time and place specified in the summons, or if any such person, appearing in obedience to any such summons, refuses to be examined or to answer any questions put to him in the course of his examination, the Coroner may enforce the attendance of such person, or compel him to answer, as the case may require, by the same means as such Coroner might use in like cases at ordinary inquests before him. C. S. C. c. 88, s. 5.

Punishment of jurors not attending, &c.

5. If any person having been duly summoned as a juror upon any such inquiry, does not, after being openly called three times, appear and serve as such juror, the Coroner may impose upon the person so making default such fine as he thinks fit, not exceeding four dollars; and such Coroner shall make out and sign a certificate containing the name, residence, trade or calling of such person, together with the amount of the fine imposed, and the cause of such fine, and shall transmit the certificate to the Clerk of the Peace in the District or County in which such

defaulter resides, on or before the first day of the General Sessions of the Peace then next ensuing for such District or County, and shall cause a copy of such certificate to be served upon the person so fined, by leaving it at his residence, within a reasonable time after such inquest; and all fines and forfeitures so certified by such Coroner shall be estreated, levied and applied in like manner, and subject to like powers, provisions and penalties in all respects, as if they had been part of the fines imposed at such General Sessions. C. S. C. c. 88, s. 6.

Fines and how levied.

6. Nothing herein contained shall affect any power by law vested in any Coroner for compelling any person to attend and act as a juror, or to appear and give evidence before him on any inquest or other proceeding, or for punishing any person for contempt of Court in not so attending and acting or appearing and giving evidence, or otherwise, but all such powers shall extend to and be exercised in respect of inquiries under this Act. C. S. C. c. 88, s. 7.

Certain powers of Coroner not to be affected.

7. Where any such inquiry has been held by the Coroner, in respect of fire in any City, Town or Incorporated Village, in conformity with this Act, the Coroner holding the same shall be entitled therefor to the sum of ten dollars, and should the said inquiry extend beyond one day, then to ten dollars *per diem* for each of two days thereafter, and no more; and in the case of an investigation concerning a fire occurring in any place, not within a City, Town, or incorporated Village the allowance to the Coroner shall be five dollars for the first day, and should the inquiry extend beyond one day, then four dollars for each of two days thereafter, and no more. C. S. C. c. 88, s. 9; 23 V. c. 35, s. 1.

Allowance to Coroners holding inquiries.

8. In all cases, the party requiring any such investigation shall alone be responsible for the expenses of and attending such investigation. 24 V. c. 33, s. 1.

Party requiring it to pay the cost.

9. No Municipality shall be liable for any such expense unless the investigation is required by an instrument under the hands and seals of the Mayor or other head officer of the Municipality, and of at least two other members of the Council thereof; and such requisition shall not be given to charge any Municipal Corporation, unless there are strong special and public reasons for granting the same. 24 V. c. 33, s. 2.

When only a Municipality shall be liable.

10. No expenses of or for an adjournment of any such inquest shall be chargeable against or payable by the party or Municipal Corporation calling for or requesting the investigation to be held, unless it is clearly shown by the Coroner, and certified under his hand, why and for what purpose an adjournment took place or became necessary in his opinion. 24 V. c. 33, s. 3.

In what case only costs of an adjournment shall be allowed.



## CHAPTER 197.

## An Act respecting abandoned Oil Wells.

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Owners of oil wells affected by water from any abandoned oil well may apply to Council for leave to fill up such abandoned well, s. 1.	Notice to owner of abandoned well, s. 2.
Powers of Council, s. 1 (2).	Right of complainant on default of owner, s. 3.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Owners of well injured may apply to Municipal Councils to fill up abandoned wells.

1. If the working of any oil well is retarded or injured by the water existing in or flowing into any abandoned oil well in the vicinity of the well so injured, it shall and may be lawful for the owner of such well so injured to apply to the Municipal Council of the Municipality in which such abandoned well is situated, for the purpose of being allowed by such Council to either fill up such abandoned well or in some other effectual way to shut off the water flowing therein.

Powers of the Council.

2. The Council shall, upon such application being made in writing by the person injured or aggrieved briefly setting forth the grievance, order some Engineer or other competent person to examine the said abandoned well, and after such examination to report to the said Council in writing whether in his opinion the person complaining is injured as alleged, and whether the said abandoned well should be filled up, or the water flowing therein shut off in some other and what manner. 35 V. c. 39, s. 1.

If engineer reports a well should be filled up, owners thereof to be notified.

2. In case the said Engineer or other competent person reports to the Council that in his opinion the said abandoned well so complained of should be filled up, or that the water flowing therein should be shut off in some other way, the Clerk of the Council shall mail to the owner or owners of such abandoned well, or to some one of such owners, or to his or their agent in charge of the premises where such abandoned well is situate, a copy of such report, with a notice in writing, signed by said Clerk, stating that unless said abandoned well is filled up or the water flowing therein is effectually shut off in accordance with the opinion contained in the said report, that the person

complaining will proceed to do the work as provided in the next section. 35 V. c. 39, s. 2.

3. If the said abandoned well is not filled up, or the water flowing therein otherwise shut off in accordance with the opinion contained in said report, within twenty days from the time of the mailing of the said notice, then it shall be lawful for the person complaining to proceed to the filling up of the said abandoned well, or the shutting off of the water flowing therein, in accordance with the terms of the said report; and no action of trespass or other action for damages shall lie or be maintainable against the person, his servants or agents, for so doing. 35 V. c. 39, s. 3.

Cases wherein complainant may fill up.

## CHAPTER 198.

### An Act respecting Line Fences.

Short Title, s. 1.

Duty of adjoining owners as to Line Fences, s. 2.

Proceedings in case of dispute :—

Notice to owner, s. 3 (1).

And to fence-viewers, s. 3 (2).

Occupant to notify owner, s. 4.

Duties of fence-viewers, s. 5.

Award :—

What to contain, s. 6.

To be filed with Clerk, s. 7.

How enforced, s. 8.

Award :—

To be a lien, s. 9.

Fees payable on, s. 10.

Appeals to County Judge :—

Procedure on, s. 11 (1), (2).

Notice of hearing, s. 11 (3).

Powers of Judge, s. 11 (4) (5).

Agreements as to Line Fences, s. 12.

Removal of Line Fences, s. 13.

Trees falling upon Line Fences, s. 14.

Forms, use of, s. 15.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Line Fences Act.*"

Short title.

2. Owners of occupied adjoining lands shall make, keep up and repair a just proportion of the fence which marks the boundary between them, or if there is no fence, they shall so make, keep up and repair the same proportion, which is to mark such boundary; and owners of unoccupied lands which adjoin occupied lands, shall, upon their being occupied, be liable to the duty of keeping up and repairing such proportion, and in that respect shall be in the same position as if their

Duties of owners of adjoining lands as to fences.

land had been occupied at the time of the original fencing, and shall be liable to the compulsory proceedings hereinafter mentioned. 37 V. c. 25, s. 2.

Disputes between owners, how to be settled.

**3.** In case of dispute between owners respecting such proportion, the following proceedings shall be adopted :

Notice to owner or occupant of adjoining land.

**1.** Either owner may notify (Form 1) the other owner or the occupant of the land of the owner so to be notified, that he will, not less than one week from the service of such notice, cause three Fence-viewers of the locality to arbitrate in the premises.

And to fence-viewers.

**2.** Such owners so notifying shall also notify (Form 2) the Fence-viewers, not less than one week before their services are required.

What to contain.

**3.** The notices in both cases shall be in writing, signed by the person notifying, and shall specify the time and place of meeting for the arbitration, and may be served by leaving the same at the place of abode of such owner or occupant, with some grown-up person residing thereat ; or in case of such lands being untenanted, by leaving such notice with any agent of such owner.

When Judge to appoint fence-viewers.

**4.** The owners notified may, within the week, object to any or all of the Fence-viewers notified, and in case of disagreement, the Judge hereinafter mentioned shall name the Fence-viewers who are to arbitrate. 37 V. c. 25, s. 3.

Duty and liability of occupants as to notifying owners.

**4.** An occupant, not the owner of land notified in the manner above mentioned, shall immediately notify the owner : and if he neglects so to do, shall be liable for all damage caused to the owner by such neglect. 37 V. c. 25, s. 9.

Duties and powers of fence-viewers.

**5.** The Fence-viewers shall examine the premises, and if required by either party, they shall hear evidence, and are authorized to examine the parties and their witnesses on oath, and any one of them may administer an oath or affirmation as in Courts of Law. 37 V. c. 25, s. 4.

Award of fence-viewers.

**6.** The Fence-viewers shall make an award (Form 3) in writing signed by any two of them, respecting the matters so in dispute ; which award shall specify the locality, quantity, description and the lowest price of the fence it orders to be made, and the time within which the work shall be done, and shall state by which of the said parties the costs of the proceedings shall be paid, or whether either party shall pay some proportion of such costs.

Contents.

Character of fence.

**2.** In making such award, the Fence-viewers shall regard the nature of the fences in use in the locality, the pecuniary



circumstances of the persons between whom they arbitrate, and generally the suitableness of the fence ordered to the wants of each party.

3. Where, from the formation of the ground, by reason of streams or other causes, it is found impossible to locate the fence upon the line between the parties, it shall be lawful for the Fence-viewers to locate the said fence either wholly or partially on the land of either of the said parties, where to them it seems to be most convenient ; but such location shall not in any way affect the title to the land.

Location of fence.

4. If necessary, the Fence-viewers may employ a Provincial Land Surveyor, and have the locality described by metes and bounds. 37 V. c. 25, s. 5.

Employment of surveyor.

7. The award shall be deposited in the office of the Clerk of the Council of the Municipality in which the lands are situate, and shall be an official document, and may be given in evidence in any legal proceeding by certified copy, as are other official documents ; and notice of its being made shall be given to all parties interested. 37 V. c. 25, s. 6.

Deposit of award.  
Award may be evidence.  
Notification of award.

8. The award may be enforced as follows :—The person desiring to enforce it shall serve upon the owner or occupant of the adjoining lands a notice in writing, requiring him to obey the award, and if the award is not obeyed within one month after service of such notice, the person so desiring to enforce it may do the work which the award directs, and may immediately recover its value and the costs from the owner by action in any Division Court having jurisdiction in the locality : but the Judge of such Division Court may, on application of either party, extend the time for making such fence to such time as he may think just. 37 V. c. 25, s. 7.

Award, how enforced.

9. The award shall constitute a lien and charge upon the lands respecting which it is made, when it is registered in the Registry Office of the County, or other Registration Division in which the lands are.

Award to be a charge on lands, if registered.

2. Such registration may be in duplicate or by copy, proved by affidavit of a witness to the original, or otherwise, as in the case of any deed which is within the meaning of "*The Registry Act.*" 37 V. c. 25, s. 8.

How registered.  
Rev. Stat. c. 111.

10. The Fence-viewers shall be entitled to receive two dollars each for every day's work under this Act. Provincial Land Surveyors and witnesses shall be entitled to the same compensation as if they were subpoenaed in any Division Court. 37 V. c. 25, s. 10.

Fees to Fence-viewers, Surveyors and witnesses.

Appeals.

**11.** Any person dissatisfied with the award made may appeal therefrom to the Judge of the County Court of the County in which the lands are situate, and the proceedings on such appeal shall be as follows :—

Notice of appeal.

1. The appellant shall serve upon the Fence-viewers, and all parties interested, a notice in writing of his intention to appeal within one week from the time he has been notified of the award ; which notice may be served as other notices mentioned in this Act.

To Clerk.

2. The appellant shall also deliver a copy of such notice to the Clerk of the Division Court of the Division in which the land lies, and the Clerk shall immediately notify the Judge of such appeal, whereupon the Judge shall appoint a time for the hearing thereof, and, if he thinks fit, order such sum of money to be paid by the appellant to the said Clerk as will be a sufficient indemnity against costs of the appeal.

Notice of hearing.

3. The Judge shall order the time and place for the hearing of the appeal, and communicate the same to the Clerk, who shall notify the Fence-viewers and all parties interested in the manner hereinbefore provided for the service of other notices under this Act.

Powers of the Judge.

4. The Judge shall hear and determine the appeal, and set aside, alter, or affirm the award, correcting any error therein, and he may examine parties and witnesses on oath, and, if he so pleases, may inspect the premises ; and may order payment of costs by either party, and fix the amount of such costs.

Decision of Judge to be final.

5. His decision shall be final ; and the award, as so altered or confirmed, shall be dealt with in all respects as it would have been if it had not been appealed from.

6. The practice and proceedings on the appeal, including the fees payable for subpoenas and the conduct money of witnesses, shall be the same, as nearly as may be, as in the case of a suit in the Division Court. 37 V. c. 25, s. 11 ; 40 V. c. 7. *Sched. A.* (202) ; 40 V. c. 8, s. 58.

Registration of agreements.

**12.** Any agreement in writing (Form 4) between owners respecting such line fence may be filed or registered and enforced as if it was an award of Fence-viewers. 37 V. c. 25, s. 12.

Owner of division fence which forms part of another person's land not to remove same except upon notice, &c.

**13.** The owner of the whole or part of a division or line fence which forms part of the fence enclosing the occupied or improved land of another person, shall not take down or remove any part of such fence,

(a) Without giving at least six months previous notice of

his intention to the owner or occupier of such adjacent enclosure;

(b) Nor unless such last mentioned owner or occupier after demand made upon him in writing by the owner of such fence, refuses to pay therefor the sum to be determined as provided in the sixth section of this Act;

(c) Nor if such owner or occupier will pay to the owner of such fence or of any part thereof, such sum as the Fence-viewers may award to be paid therefor under the sixth section of this Act. 40 V. c. 29, s. 1.

2. The provisions of this Act relating to the mode of determining disputes between the owner of occupied adjoining lands; the manner of enforcing awards and appeals therefrom; and the schedules of forms attached hereto, and all other provisions of this Act, so far as applicable, shall apply to proceedings under this section. 40 V. c. 29, s. 2.

Provisions of this Act to apply to cases under this section.

14. If any tree is thrown down, by accident or otherwise, across a line or division fence, or in any way in and upon the property adjoining that upon which such tree stood, thereby causing damage to the crop upon such property or to such fence, it shall be the duty of the proprietor or occupant of the premises on which such tree theretofore stood, to remove the same forthwith, and also forthwith to repair the fence, and otherwise to make good any damage caused by the falling of such tree.

Provision, when a tree is thrown down across a line fence.

2. On his neglect or refusal so to do for forty-eight hours after notice in writing to remove the same, the injured party may remove the same, or cause the same to be removed, in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain such tree to remunerate him for such removal, and may also recover any further amount of damages beyond the value of such tree from the party liable to pay it under this Act.

When injured party may remove tree.

3. For the purpose of such removal the owner of such tree may enter into and upon such adjoining premises for the removal of the same without being a trespasser, avoiding any unnecessary spoil or waste in so doing.

Entry to remove tree not to be a trespass, &c.

4. All disputes arising between parties relative to this section, and for the collection and recovery of all or any sums of money becoming due thereunder, shall be adjusted by three Fence-viewers of the Municipality, two of whom shall agree. 29-30 V. c. 51, s. 355 (28).

Fence-viewers to decide disputes.

15. The forms in the Schedule hereto are to guide the parties, being varied according to circumstances. 37 V. c. 25, s. 13.

Forms.



## SCHEDULE OF FORMS.

## FORM 1.

(Section 3.)

## NOTICE TO OPPOSITE PARTY.

Take notice, that Mr. \_\_\_\_\_, Mr. \_\_\_\_\_, and Mr. \_\_\_\_\_, three fence-viewers of this locality, will attend on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, at the hour of \_\_\_\_\_, to view and arbitrate upon the line fence in dispute between our properties, being Lots (or parts of Lots) *One* and *Two* in the \_\_\_\_\_ Concession of the Township of \_\_\_\_\_, in the County of \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

A. B.,  
Owner of Lot 1.

To C. D.,  
Owner of Lot 2.

## FORM 2.

(Section 3.)

## NOTICE TO FENCE-VIEWERS.

Take notice, that I require you to attend at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 18\_\_\_\_, at \_\_\_\_\_ o'clock A.M., to view and arbitrate on the line fence between my property and that of Mr. \_\_\_\_\_, being Lots (or parts of Lots) Nos. *One* and *Two* in the \_\_\_\_\_ Concession of the Township of \_\_\_\_\_, in the County of \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

A. B.,  
Owner of Lot 1.

## FORM 3.

(Section 6.)

## AWARD.

We, the fence-viewers of (*name of the locality*), having been nominated to view and arbitrate upon the line fence between \_\_\_\_\_ by \_\_\_\_\_

(name and description of owner who notified) and (name and description of owner notified), which fence is to be made and maintained between (describe properties), and having examined the premises and duly acted according to "The Line Fences Act," do award as follows : That part of the said line which commences at and ends at (describe the points) shall be fenced, and the fence maintained by the said , and that part thereof which commences at and ends at (describe the points) shall be fenced, and the fence maintained by the said . The fence shall be of the following description (state the kind of fence, height, material, &c.), and shall cost at least per rod. The work shall be commenced within days, and completed within days from this date, and the costs shall be paid by (state by whom paid; if by both, in what proportion).

Dated this day of , A.D. 18 .

(Signatures of fence-viewers.)

\_\_\_\_\_

FORM 4.

(Section 12.)

AGREEMENT.

We and , owners respectively of Lots (or parts of Lots) One and Two in the Concession of the Township of , in the County of , do agree that the line fence which divides our said properties shall be made and maintained by us as follows : follow the same form as award.)

Dated this day of , A.D. 18 .

(Signatures of parties.)

\_\_\_\_\_

## CHAPTER 199.

## An Act respecting Ditching Water-courses.

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Short title, s. 1.	To be filed with Clerk, s. 8.
Application of Act, s. 2.	To be a lien on land, s. 9.
Duty of adjoining owners as to ditches, s. 3.	How enforced, s. 10.
Proceedings in case of dispute, s. 4.	Fees payable on, s. 11.
Notice to owner, s. 4 (1).	Appeals from, s. 12.
Notice to Fence-viewers, s. 4 (2).	Act applies to Municipal Corporations, s. 13.
Occupant to notify owner, s. 5.	Subsequent parties, s. 14.
Duty of Fence-viewers, s. 6.	Agreement may be registered, s. 15.
Award :—	Forms, s. 16.
What to contain, s. 7.	

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

**1.** This Act may be cited as "*The Ditches and Water Courses Act.*"

Certain Acts not affected by this Act.

**2.** This Act shall not affect the Acts relating to Municipal Institutions or the Acts respecting Drainage, as this Act is intended to apply to individual, and not to public or local interests, rights, or liabilities. 38 V. c. 26, s. 2.

Owners to construct ditches in certain proportions.

**3.** In case of owners occupying adjoining lands which would be benefited by making a ditch or drain, or by deepening or widening a ditch or drain already made in a natural water-course, or by making, deepening or widening a ditch or drain for the purpose of taking off surplus water from swamps or low miry land, in order to enable the owners or occupiers thereof to cultivate the same, such several owners shall open and make, deepen or widen a just and fair proportion of such ditch or drain, according to their several interests in the construction of the same ; and such ditches or drains shall be kept and maintained so opened, deepened or widened, by the said owners respectively, and their successors in such ownership, in such proportions as they have been so opened, deepened or widened, unless in consequence of altered circumstances the Fence-viewers hereinafter named otherwise direct, which they are hereby empowered to do upon application of any party interested, in the same form and manner as is hereinafter prescribed in respect of the original opening, deepening or widening ; and in case the Fence-viewers find no reason for such



application, all costs caused thereby shall be borne by the applicant. 38 V. c. 26, s. 3.

4. In case of dispute between owners respecting such proportion, the following proceedings shall be adopted:—

Disputes to be referred to fence-viewers.

1. Either owner may notify (Form 1) the other owner or the occupant of the land of the owner so to be notified, that he will, not less than one week from the service of such notice, cause three Fence-viewers of the locality to arbitrate in the premises.

Notice to owner or occupier of adjoining land.

2. Such owner so notifying shall also notify (Form 2) the Fence-viewers not less than one week before their services are required.

And to fence-viewers.

3. The notices in both cases shall be in writing, signed by the person notifying, and shall specify the time and place of meeting for the arbitration, and may be served by leaving the same at the place of abode of such owner or occupant, with some grown-up person residing thereat, or in case of a non-resident, by leaving such notice with any agent of such owner.

Contents of notice.

4. The owner notified may, within the week, object to any or all of the Fence-viewers notified; and in case of disagreement the Judge hereinafter mentioned shall name the Fence-viewers who are to arbitrate. 38 V. c. 26, s. 4.

When Judge to appoint fence-viewers.

5. An occupant not the owner of land notified in the manner above mentioned, shall immediately notify the owner; and if he neglects so to do, shall be liable for all damage caused to the owner by such neglect. 38 V. c. 26, s. 12.

Occupants to notify owners

6. The Fence-viewers shall examine the premises, and if required by either party, they shall hear evidence, and are authorized to examine the parties and their witnesses on oath, and any one of them may administer an oath or affirmation as in Courts of Law. 38 V. c. 26, s. 5.

Duties of fence-viewers.

7. The Fence-viewers shall make an award (Form 3) in writing, signed by any two of them, respecting the matters so in dispute, which award shall specify the locality, quality, and description and cost of the ditch or drain it orders to be made, and the time within which the work shall be done; and shall state by which of the said parties the costs of the proceedings shall be paid, or whether either party shall pay some proportion of such costs.

Awards.

Contents of.

2. In making such award the Fence-viewers shall regard the nature of the ditches or drains in use in the locality, and generally the suitableness of the ditch or drain ordered to the wants of the parties; and the Fence-viewers may,

What to be considered.

if they think necessary, employ a Provincial Land Surveyor for the purpose of taking levels, or of making a plan for the parties to follow in making the ditch or drain, or for other purposes.

Estimates exceeded.

3. If the expense of the ditch or drain exceeds the expense as estimated by the Fence-viewers, the same Fence-viewers may be again notified in the same manner herein provided, and shall attend, and, if they see fit, make a supplementary award respecting such expense which award shall have the same effect, and may be dealt with in all respects as if it were part of the first award. 38 V. c. 26, s. 6.

Supplementary award.

Fence-viewers may order opening of ditch across another person's land.

4. If it appears to the Fence-viewers that the owner or occupier of any tract of land is not sufficiently interested in the opening up the ditch or water-course to make him liable to perform any part thereof, and at the same time that it is necessary for the other party that such ditch, should be continued across such tract, they may award the same to be done at the expense of such other party; and after such award, the last mentioned party may open the ditch or water-course across the tract, at his own expense, without being a trespasser. 40 V. c. 8, s. 59.

Deposit of award to be evidence.

8. The award and any plan made as above provided for, shall be deposited in the office of the Clerk of the Municipality in which the lands are situate, and the award and plan shall be official documents, and may be given in evidence in any legal proceedings by certified copies, as are other official documents, and notice of their being made shall also be given to all parties interested. 38 V. c. 26, s. 7.

Notification of award.

Award to be a lien on the land.

9. The award shall constitute a lien and charge upon the lands respecting which it is made when it is registered in the Registry Office of the County or other Registration Division in which the lands are.

Registration of award.

2. Such registration may be in duplicate or by copy, proved by affidavit of a witness to the original, or otherwise, as in the case of any instrument which is within the meaning of "*The Registry Act*." 38 V. c. 26, s. 9.

Rev. Stat. c. 111.

Enforcing award.

10. The award may be enforced as follows:—The person desiring to enforce it, provided the work is not done within the time specified by the award, may do the work which the award directs, and may immediately recover its value and the costs from the owner by action in any Division Court having jurisdiction in the locality: but the Judge of such Division Court may, on application of either party, extend the time for making such ditch to such time as he may think just. 38 V. c. 26, s. 8.

**11.** The Fence-viewers shall be entitled to receive two dollars for every day's work under this Act. Provincial Land Surveyors and witnesses shall be entitled to the same compensation as if they were subpoenaed in any Division Court. 38 V. c. 26, s. 13. Fence-viewers' and witnesses' fees.

**12.** Any person dissatisfied with the award made may appeal therefrom to the Judge of the County Court of the County in which the lands are situate; and the proceedings on such appeal shall be as follows:—

1. The appellant shall serve upon the Fence-viewers and all parties interested, a notice in writing of his intention to appeal, within one week from the time he has been notified of the award, which notice shall be served as other notices mentioned in this Act. Notice of,

2. The appellant shall also deliver a copy of such notice to the Clerk of the Division Court of the Division in which the land or a portion thereof lies, and the Clerk shall immediately notify the Judge of such appeal, whereupon the Judge shall appoint a time for the hearing thereof, and, if he thinks fit, order such sum of money to be paid by the appellant to the said Clerk as will be a sufficient indemnity against costs of the appeal. To Clerk  
And Judge.

3. The Judge shall order the time and place for the hearing of the appeal, and communicate the same to the Clerk, who shall notify the Fence-viewers and all parties interested, in the manner hereinbefore provided for the service of other notices under this Act. Notice of hearing.

4. The Judge shall hear and determine the appeal, and set aside, alter, or affirm the award, correcting any error therein, and he may examine parties and witnesses on oath, and, if he so pleases, inspect the premises, and he may order payment of costs by either party, and fix the amount of such costs. Powers of Judge.

5. His decision shall be final; and the award, as so altered or confirmed, shall be dealt with in all respects as it would have been if it had not been appealed from. 38 V. c. 26, s. 14. No appeal.

**13.** In case any Municipal Corporation would be benefited by the construction of such ditch or drain, such Corporation shall be in the same position as an individual owner under this Act. 38 V. c. 26, s. 10. 40 V. c. 8, s. 60. Liabilities of Municipal Corporations.

**14.** In case any person during or after the construction of the ditches or drains herein provided for, desires to avail himself of such ditches or drains for the purpose of draining other lands than those contemplated by the original proceedings, he may avail himself of the provisions of this Act, as if he were or Persons desiring to use ditches or drains after construction.



had been a party to such original proceedings; but no person shall make use of the ditches or drains constructed under the provisions of this Act unless under agreement or award pursuant to its provisions as to use of the land of others, as to enlargement of the original ditch or drain, so as to contain additional water therein, and as to the time for the completion of such enlargement. 38 V. c. 26, s. 11.

Agreements as to ditches may be registered and enforced.

**15.** Any agreement in writing (Form 4), between owners respecting such ditch, may be filed or registered, and enforced as if it was an award of the Fence-viewers. 38 V. c. 26, s. 15.

Forms.

**16.** The forms in the Schedule hereto are to guide the parties, being varied according to circumstances. 38 V. c. 26, s. 16.

## SCHEDULE OF FORMS.

### FORM 1.

(Section 4.)

#### NOTICE TO OPPOSITE PARTY.

Take notice, that Mr. \_\_\_\_\_, Mr. \_\_\_\_\_ and Mr. \_\_\_\_\_ three fence-viewers of this locality, will attend on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18 \_\_\_\_\_, at the hour of \_\_\_\_\_, to view our properties, being Lots (or parts of Lots) *One* and *Two* in the \_\_\_\_\_ Concession of the Township of \_\_\_\_\_, in the County of \_\_\_\_\_ and arbitrate respecting the ditch in dispute upon our said Lots.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 18 \_\_\_\_\_

A. B.,  
Owner of Lot 1.

To C. D.  
Owner of Lot 2. (or as the case may be).

### FORM 2.

(Section 4.)

#### NOTICE TO FENCE-VIEWERS.

Take notice, that I require you to attend at \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18 \_\_\_\_\_, at \_\_\_\_\_ o'clock on the \_\_\_\_\_

to view my property, and that of Mr. \_\_\_\_\_  
of Lots) Nos. *One* and *Two* in the \_\_\_\_\_  
\_\_\_\_\_, in the County of \_\_\_\_\_  
required on said Lots.

being Lots (or parts  
Concession of the Township of  
, and arbitrate on the ditch

Dated this                      day of                      A.D. 18

A. B.  
Owner of Lot 1.

## FORM 3.

(Section 7.)

AWARD.

We, the Fence-viewers of *(name of the locality)*, having been nominated to view and arbitrate between *(name and description of owner who notified)* and *(name and description of owner notified)* upon a ditch required on the property of *(name of owner notified)*, which ditch is to be made and maintained on said property ; and having examined the premises and duly acted according to *The Act respecting Ditching Water-courses*, do award as follows: A ditch shall be made and maintained by the said \_\_\_\_\_ commencing at *(state point of commencement and then give course and point of ending)*. The ditch shall be of the following description *(state kind of ditch, depth, width, &c. ; if a plan has been made by Provincial Land Surveyor, describe course, kind of ditch, &c., by reference to plan)*. The work shall be commenced within \_\_\_\_\_ days, and completed within \_\_\_\_\_ days from this date ; and the costs shall be paid *(state by whom to be paid, and if by both, in what proportion)*.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18\_\_.

Witness : (Signatures of Fence-Viewers.)

## FORM 4.

(Section 15.)

AGREEMENT.

We                      and                      owners respectively of Lots (or parts  
of Lots) *One* and *Two* in the                      Concession of the Township of  
in the County of                      , do agree that a ditch shall be made and  
maintained by us as follows (*follow same form as in award*).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 18\_\_.

Witness : (Signatures of parties.)

## 10. *Protection of Game, &c.*

CHAP. 200.—For the protection of Game and Fur-bearing Animals, p. 422.

“ 201.—For the protection of Insectivorous Birds, etc., p. 425.

“ 202.—To encourage the destroying of Wolves, p. 427.

### CHAPTER 200.

#### An Act for the Protection of Game and Fur-bearing Animals.

##### Protection of Game:

Periods within which certain animals and birds protected, s. 1.

But may be sold or kept for private use at other periods, s. 2.

Where possession unlawful, s. 2 (2)

Protection of eggs, s. 3.

##### Prohibitions:

Trapping, etc., s. 4.

Batteries and night lights, s. 5.

Use of poison, s. 6.

Protection of fur-bearing animals, s. 7.

##### Penalties:

How recoverable, s. 8.

Amount of in each case, s. 8.

Application of, s. 9.

Confiscation to follow, s. 10.

Game imported for breeding not to be destroyed, s. 11.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Close period.

1. None of the animals or birds hereinafter mentioned shall be hunted, taken or killed within the periods hereinafter limited:

Deer, &c.

(1) Deer, Elk, Moose, Reindeer or Cariboo, between the first day of December and the first day of September in the following year;

Turkey, &c.

(2) Wild Turkeys, Grouse, Pheasants or Partridges, between the first day of January and the first day of September;

Quail.

(3) Quail, between the first day of January and the first day of October;



(4) Woodcock, between the first day of January and the first day of July ;

(5) Snipe, between the first day of May and the fifteenth day of August ;

(6) Waterfowl, which are known as Mallard, Grey Duck, Black Duck, Wood or Summer Duck, and all the kinds of Duck known as Teal, between the first day of January and the fifteenth day of August. 35 V. c. 38, s. 2.

(7) Other Ducks, Wild Swans or Geese, between the first day of May and the fifteenth day of August. 34 V. c. 35, s. 2.

(8) Hares or Rabbits, between the first day of March and the first day of September. 35 V. c. 38, s. 2.

2. The said animals or birds may be exposed for sale for one month, and no longer, after the beginning of the periods above respectively limited for their protection, and may be had in possession for the private use of the owner and his family at any time ; but in all cases the proof of the time of killing or taking shall be upon the person so in possession. Exposure for sale.

2. Except as aforesaid, no person shall have in his possession any of the said animals or birds, or any part or portion of any of such animals or birds, during the periods in which they are so protected. 35 V. c. 38, s. 4. Possession how far lawful.

3. No eggs of any of the birds above-mentioned shall be taken, destroyed, or had in possession by any person at any time. 35 V. c. 38, s. 5. Protection of eggs.

4. None of the animals or birds mentioned in this Act, except the animals mentioned in the seventh section shall be trapped or taken by means of traps, nets, snares, gins, baited lines or other similar contrivances ; nor shall such traps, nets, snares, gins, baited lines or contrivances be set for them, or any of them, at any time ; and such traps, nets, snares, gins, baited lines and contrivances may be destroyed by any person without such person thereby incurring any liability therefor. 35 V. c. 38, s. 6. Trapping forbidden.

5. None of the contrivances for taking or killing the wild fowl known as Swans, Geese or Ducks, which are described as batteries, sunken punts or night lights, shall be used at any time. 35 V. c. 38, s. 7. Batteries, etc., for wild fowl forbidden.

6. It shall not be lawful for any person to kill or take any animal by the use of poison or poisonous substances, nor to expose poison, poisoned bait, or other poisoned substances in any place or locality where dogs or cattle may have access to the same. 34 V. c. 35, s. 6. Poison not to be used to kill animals.

Fur-bearing  
animals pro-  
tected.

7. And whereas fur-bearing animals should be protected during the seasons when their skins are of little value, it is enacted that no Beaver, Muskrat, Mink, Sable, Martin, Raccoon, Otter or Fisher, shall be hunted, taken, killed, or had in the possession of any person between the first day of May and the first day of November; nor shall any traps, snares, gins or other contrivances be set for them during such period; nor shall any Muskrat house be destroyed at any time; and any such traps, snares, gins or other contrivances so set, may be destroyed by any person, without such person thereby incurring any liability therefor, but this section shall not apply to any person destroying any of the said animals in defence or preservation of his property. 34 V. c. 35, s. 3; 35 V. c. 38, s. 8.

Penalties.

8. Offences against this Act shall be punished upon summary conviction on information or complaint before a Justice of the Peace as follows, with costs:—

1. In the case of Deer, Elk, Moose, Reindeer or Cariboo, by a fine not exceeding fifty dollars, nor less than ten dollars, for each animal;

2. In the case of birds or eggs, by a fine not exceeding twenty-five dollars, nor less than five dollars, for each bird or egg;

3. In the case of the fur-bearing animals mentioned in the seventh section of this Act, by a fine not exceeding twenty-five dollars, nor less than five dollars for each animal;

4. In the case of other breaches of this Act, by a fine not exceeding twenty-five dollars, nor less than five dollars. 35 V. c. 38, s. 9.

Disposition of  
penalties.

9. The whole of such fine shall be paid to the prosecutor, unless the convicting Justice has reason to believe that the prosecution is in collusion with and for the purpose of benefiting the accused, in which case the said Justice may order the disposal of the fine as in ordinary cases. 35 V. c. 38, s. 10.

Confiscation of  
game illegally  
taken or killed.

10. In all cases, confiscation of the game shall follow conviction; and the game so confiscated shall be given to some charitable institution or purpose, at the discretion of the convicting Justice. 31 V. c. 12, s. 13.

Game import-  
ed for breeding  
not to be killed

11. In order to encourage persons who have heretofore imported or hereafter import different kinds of game with a desire to breed and preserve the same on their own lands, it is enacted that it shall not be lawful to hunt, shoot, kill or destroy any such game without the consent of the owner of the property, wherever the same may have been bred. 31 V. c. 12, s. 16.

## CHAPTER 201.

## An Act for the Protection of Insectivorous and other Birds beneficial to Agriculture.

To what birds Act not applicable, s. 1.	Eggs or birds for scientific purposes, s. 6.
What birds may be killed, s. 2.	Penalties:
Capturing, etc., all other birds forbidden, s. 3.	How recoverable, s. 7 (1).
And traps for them may be destroyed, s. 3.	Application of, s. 7 (2).
Nests, young birds and eggs protected, s. 4.	Imprisonment in default of payment, s. 7 (3).
Birds unlawfully taken to be liberated, s. 5.	Convictions not to be set aside for informality, s. 8.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

**1.** Nothing in this Act contained shall be held to affect *The Act for the Protection of Game and Fur-bearing Animals*, or to apply to any imported cage birds or other domesticated bird or birds generally known as cage birds, or to any bird or birds commonly known as poultry. 36 V. c. 45, ss. 5 & 9.

Not to affect  
Rev. Stat. c.  
200.

Cage birds and  
poultry.

**2.** It shall not be lawful to shoot, destroy, wound or injure, or to attempt to shoot, destroy, kill, wound or injure any bird whatsoever, save and except eagles, falcons, hawks, owls, wild pigeons, king-fishers, jays, crows and ravens, and the birds especially mentioned in *The Act for the Protection of Game and Fur-bearing Animals*. 36 V. c. 45, s. 2.

Birds that may  
be killed.

Rev. Stat. c.  
200.

**3.** It shall not be lawful to take, capture, buy, sell, expose for sale or have in possession any bird whatsoever, save the kinds hereinbefore or hereinafter excepted, or to set, wholly or in part, any net, trap, springe, snare, cage or other machine or engine by which any bird whatsoever, save and except eagles, falcons, hawks, owls, wild pigeons, king-fishers, jays, crows and ravens might be killed and captured; and any net, trap, springe, snare, cage or other machine or engine, set either wholly or in part for the purpose of either capturing or killing any bird or birds, save and except eagles, falcons, hawks, owls, wild pigeons, king-fishers, crows, jays and ravens, may be destroyed by any person, without such person incurring any liability therefor. 36 V. c. 45, s. 3.

Selling or ex-  
posing for sale  
or trapping  
certain birds.

Power to seize  
nets, traps, etc.



Nest, young or egg not to be taken.

4. It shall not be lawful to take, injure, destroy or have in possession any nest, young or egg of any bird whatsoever, except of eagles, falcons, hawks, owls, wild pigeons, king-fishers, jays, crows and ravens. 36 V. c. 45, s. 4.

Power to seize birds unlawfully possessed.

5. Any person may seize, on view, any bird unlawfully possessed, and carry the same before any Justice of the Peace, to be by him confiscated, and if alive to be liberated; and it shall be the duty of all Market Clerks and Policemen or Constables, on the spot to seize and confiscate, and if alive, to liberate such birds. 36 V. c. 45, s. 5.

Eggs or birds required for scientific purposes.

6. The Commissioner of Agriculture, and all persons authorized by him to that effect, may grant written permission to any person or persons who may be desirous of obtaining birds or eggs for *bona fide* scientific purposes, to procure them for that purpose, and such person or persons shall not be liable to any penalty under this Act. 36 V. c. 45, s. 6.

Penalties.

7. The violation of any provision of this Act shall subject the offender to the payment of not less than one dollar, and not more than twenty dollars with costs, on summary conviction, on information or complaint before one or more Justices of the Peace.

Application of fines.

2. The whole of such fine shall be paid to the prosecutor, unless the convicting Justice or Justices have reason to believe that the prosecutor is in collusion with and for the purpose of benefiting the accused, in which case the said Justice or Justices may order the disposal of the fine as in ordinary cases.

Imprisonment.

3. In default of payment of such fine and costs, the offender shall be imprisoned in the nearest Common Gaol for a period of not less than two and not more than twenty days, at the discretion of such Justice or Justices of the Peace. 36 V. c. 45, s. 7.

Conviction not invalid for want of form.

8. No conviction under this Act shall be annulled or vacated for any defect in the form thereof, or for any omission or informality in any summons or other proceeding under this Act, so long as no substantial injustice results therefrom. 36 V. c. 45, s. 8.

## CHAPTER 202.

## An Act to encourage the Destroying of Wolves.

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Bounty payable on production of wolf's head, s. 1.	Provided other expenses have been first paid, s. 4.
Magistrate to give a certificate, s. 2.	Certificate a legal tender in payment of County rates, s. 5.
On production of which County Treasurer to pay bounty, s. 3.	

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**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

**1.** If any person produces the head of a wolf with the ears on, before any Justice of the Peace acting for any County in Ontario, and makes oath or affirmation (as the case may be), or otherwise proves to the satisfaction of such Justice, that the wolf was killed within that County, or within one mile of an actual settlement in the County, he shall be entitled to receive from the Treasurer of the County the sum of six dollars as a bounty for the same. C. S. U. C. c. 60, s. 1.

When any person producing to a J. P. the head of a wolf with the ears on, entitled to a reward.

**2.** In case the Justice of the Peace before whom the head of the wolf is produced, is satisfied of the fact that the wolf was killed as in the preceding section mentioned, he shall first cut off the ears thereof, and then give the person a certificate that the fact of the wolf having been killed as in the last section mentioned has been proved to his satisfaction, and such certificate shall authorize the person holding the same to demand and receive from the Treasurer of the County the said bounty of six dollars. C. S. U. C. c. 60, s. 2.

J. P. to give his certificate.

**3.** The Treasurer of the County shall forthwith pay such bounty to the person presenting the certificate, provided the County funds in his hands enable him so to do ; and if the said funds do not so enable him, then the said Treasurer shall pay the same out of the moneys of the County which next thereafter come into his hands. C. S. U. C. c. 60, s. 3.

Treasurer to pay the reward if in funds.

**4.** The Treasurer of a County shall not pay the bounty to which any such certificate entitles the person presenting the same, until he has paid the annual expenses of the County, arising from the building of a Court House and Gaol, and keeping the same in repair, the fees of the Clerk of the Peace, the

Other County expenses to be first paid.

salary of the Gaoler, and the maintenance of the prisoners.  
C. S. U. C. c. 60, s. 4.

If not paid  
certificate may  
be tendered in  
discharge of  
rates.

**5.** When the funds of any County do not enable the Treasurer thereof to pay the bounty, the certificate thereof shall be a lawful tender to the full value and amount therein specified, for and towards the discharge of any County rate or assessment to be collected from any person within the County in which the wolf was destroyed, and shall be accepted and taken by the Collector of any Township within the County as equivalent to so much of the current money of Canada, and may be by him paid and delivered over to the County Treasurer, by whom the same shall in like manner be taken and accepted as equivalent to so much of the current money aforesaid. C. S. U. C. c. 60, s. 5.

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## PART II.

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### MISCELLANEOUS CHAPTERS

OF THE

## REVISED STATUTES OF ONTARIO,

RELATING TO

### MUNICIPAL MATTERS.

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#### 1. *Drainage Works.*

- CHAP. 33.—Public Money for Drainage, p. 430.  
“ 34.—Aid to Drainage by Municipalities, p. 443.

#### 2. *Expenses of the Administration of Justice.*

- CHAP. 84.—Fees of Officers, &c., in the Administration of Justice, p. 447.  
“ 85.—Expenditure of County Funds in certain cases, p. 456.  
“ 86.—Expenses of Administration of Justice in Criminal Matters,  
payable by the Crown, p. 459.  
“ 87.—Payment of Crown Witnesses, p. 466.  
“ 89.—Appropriation of Fines and Forfeitures in certain cases, p. 469.

## 1. *Drainage Works.*

- CHAP. 33.—Expenditure of Public Money in Drainage Works, p. 430.  
 34.—Investment of Public Money in Debentures issued for the construction of Drainage Works by Municipalities, p. 443.

### CHAPTER 33.

#### An Act respecting the Expenditure of Public Money for Drainage Works.

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|---|---|
| Short title, s. 1.  | Grubbing and spreading earth, ss. 32, 33.   |
| Expenditure for drainage works authorized, ss. 2, 3.  | Assessment roll to be deposited with Commissioner of Public Works, and in Registry Office, s. 34. |
| When Commissioner may undertake drainage works, ss. 4, 5.                                     | Assessments to form a rent charge on land, s. 36.   |
| At request of a municipal Council, s. 4.  | Collection of Assessments and remittance to the Provincial Treasurer, ss. 35-40.                  |
| On application by majority of owners, s. 5.   | How land may be discharged from the rent charge, ss. 41-45.                                       |
| When works may be extended into an adjoining municipality, s. 6.                              | Increased rent to be paid by tenants of improved lands to be determined by assessors, s. 46.      |
| Assessment of lands benefited to defray expense, ss. 7-13.                                    | Where rent charge is upon Crown lands, s. 47.   |
| Complaints and Appeals from Assessment, ss. 14-19.  | Disputes as to boundaries to be settled by Assessors, s. 48.                                      |
| When lands in adjoining municipality may be charged though works not carried into it, s. 21.  | Disputes between municipalities. &c., as to damages, to be referred to arbitration. s. 49.        |
| Assessment of lands of adjoining municipality, ss. 21-24.                                     | Assessment where two or more municipalities have applied for drainage, s. 50.                     |
| Arbitration in case of objection to the Assessment, s. 25-29.                                 |   |
| Repair and maintenance of works after completion, s. 30.                                      |   |
| Adjoining municipality using a drain may be assessed for construction and maintenance, s. 31. |   |

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Ontario Drainage Act.*"

2. The Treasurer of the Province may, with the authority of the Lieutenant-Governor in Council, advance out of the public moneys of the Province any sum or sums of money, so that the same, with what has been already expended under "*The Ontario Drainage Act of 1873*," do not exceed in the whole the sum of two hundred thousand dollars, to be expended in Drainage Works, to be executed under the provisions of *The Act respecting the Public Works of Ontario*, and of this Act. 36 V. c. 38, s. 1.

Expenditure authorized.

36 V. c. 38.

Rev. Stat. c. 30.

3. The Commissioner of Public Works shall cause a separate account to be opened in the books of his Department, in which shall be regularly entered a true and exact statement of all sums of money received, paid and expended about any drainage or improvement by means of drainage, embankment, culverts, or other work in connection with drainage, made under the provisions of the aforesaid Act, and of the several articles, matters or things for which any sum of money has been so disbursed and paid. 36 V. c. 38, s. 2.

Separate account of expenditure for drainage works to be kept.

4. The Commissioner of Public Works may, on the written application of the Council of any Municipality asking for drainage works within such Municipality, or along any town line of such Municipality, undertake and complete the same. 36 V. c. 38, s. 3.

Commissioner of Public Works may undertake drainage on request of municipality,

5. The Commissioner of Public Works, on the petition of a majority of all the owners, or on the petition of a majority of the owners as shown by the last revised assessment roll to be resident on the property described in the petition, and the whole or a portion of which is to be benefited by the drainage, may undertake and complete the same, as if the Council had applied for the drainage. 36 V. c. 38, s. 4.

or on petition of resident property holders.

6. Wherever it is necessary to continue the drainage works beyond the limits of any Municipality, the engineer employed by the Commissioner of Public Works may continue the survey and levels into the adjoining Municipality, until he finds fall enough to carry the water beyond the limits of the Municipality in which the drainage was commenced, and the Commissioner may undertake and complete the same as if such adjoining Municipality or inhabitants thereof had petitioned for the same. 36 V. c. 38, s. 6.

When work may be extended into other municipalities.

7. The Commissioner of Public Works shall notify the Council of any Municipality in which, or along any town line of which drainage works have been executed under the foregoing provisions, requesting them to appoint three Assessors, who shall assess all lands and roads benefited by such drainage. 36 V. c. 38, s. 7.

Appointment by Council of assessors of the benefit of drainage.

8. If the Council so notified fails to appoint such Assessors within one month after such notification by the Com-

How assessment may be made on failure



of Council to  
appoint assess-  
sors.

missioner of Public Works, then the Official Arbitrators, or such other persons as the Commissioner of Public Works may appoint, shall make the assessment in the same manner and under the formalities hereafter laid down for the guidance of the Assessors. 36 V. c. 38, s. 8.

Oath of assess-  
sors before  
assessing.

**9.** The Assessors shall, before proceeding to make the assessment, take and subscribe the following oath (or, in case of those who affirm, make and subscribe the following affirmation) before any Justice of the Peace: which oath or affirmation shall be deposited with the assessment roll as provided in section thirteen:

I, *A. B.*, do swear (*or affirm*) that I will to the best of my ability and knowledge make a true and honest assessment of the lands drained or benefited by such drainage in proportion to the benefit derived by each road, lot, or part of lot thereby: So help me God" (*or in case of affirmation* "All which I do solemnly affirm").

36 V. c. 38, s. 9.

Commissioner  
to give certain  
information to  
the Assessors.

Rev. Stat.  
c. 30.

**10.** As soon as conveniently may be after any works for the drainage or improvement of any land, authorized to be executed under *The Act respecting the Public Works of Ontario*, have been completed, the said Commissioner shall furnish the Assessors with a map of the Municipality, with the drain or drains marked upon it, and assessment rolls such as are used for ordinary assessments, and a statement of the sums which have been expended in and about the works so executed, including all expenses incident thereto, and interest upon all payments, but not including expenses of preliminary surveys, together with all such maps, plans, sections and other documents or information as may seem necessary. 36 V. c. 38, s. 14.

How and when  
assessments to  
be made.

**11.** Upon receiving the plans, maps and other documents as aforesaid, the said Assessors shall visit and inspect the lands, and shall assess them, setting opposite each parcel of land the proportion of the total amount of the sums which have been expended, as aforesaid, which ought to be payable in respect of the several parcels or lots of the land or road so drained or improved. 36 V. c. 38, s. 15.

Assessment of  
lands.

**12.** The Assessors shall assess all lands and roads benefited by drainage undertaken under the formalities prescribed in the fifth section, as if the same had been undertaken on the application of the Municipality. 36 V. c. 38, s. 5.

Assessors to  
deposit copy of  
their assess-  
ment with  
Clerk of Muni-  
cipality.

**13.** The Assessors shall, forthwith after they have completed the assessment, deposit an attested copy of their assessment roll with the Clerk of the Municipality which, or the inhabitants of which, applied for the drainage. 36 V. c. 38, s. 10.

**14.** The assessment shall be subject, in every case of complaint by the owner or person interested in any property assessed, whether of overcharge, or of undercharge of any other property assessed, or that property which should be assessed has been wrongfully omitted to be assessed, to an appeal to the Court of Revision of the Municipality in which the lands or roads benefited by the drainage lie; and the proceedings for trial of such complaints, shall be such as are had upon complaints to the Court of Revision under "*The Assessment Act.*" 36 V. e. 38, s. 11; 40 V. e. 8, s. 57.

Appeal from  
assessment.

Rev. Stat. c.  
180, ss. 56-57.

**15.** The Clerk of the Municipality with whom the assessment roll has been deposited shall, within six days after such assessment roll has been so deposited with him, publish the same for four weeks in some paper in the Municipality, or, if no newspaper be published therein, then in some newspaper in the nearest Municipality, together with a notice of the holding of a Court or Courts of Revision, as the case may require. 36 V. e. 38, s. 12; 40 V. e. 8, s. 57.

Clerk of  
Municipality  
to publish the  
assessment.

**16.** The Councils of the Municipalities in which the lands or roads benefited lie shall, from time to time as occasion may require, hold Courts of Revision for the hearing of complaints against such assessment on some day not earlier than twenty nor later than thirty days from the day on which the assessment roll was first published; and such Courts shall be constituted in the same manner and have the same powers as Courts of Revision under "*The Assessment Act.*" 36 V. e. 38, s. 12; 40 V. e. 8, s. 57.

Courts of Re-  
vision.

Rev. Stat.  
c. 180, ss. 47-  
55.

**17.** The Clerk with whom the roll is deposited shall transmit to the Court of Revision of each Municipality affected, a certified copy of so much of the said roll as relates to such Municipality. 40 V. e. 8, s. 57.

Reference of  
complaints  
against assess-  
ment.

**18.** In case of appeal from the Court of Revision the same shall be to the Judge, or Junior or acting Judge of the County Court, of the County within which the Municipality is situate; and such Judge and the Clerk of the Municipality and the Clerks of the Division Courts therein respectively shall have the same powers and duties, as nearly as may be, as they have upon appeals from the Court of Revision under "*The Assessment Act.*" 36 V. e. 38, s. 12; 40 V. e. 8, s. 57.

Appeal to  
Judge.

Powers, etc.,  
of the Judge  
and Clerk.  
Rev. Stat., c.  
180, ss. 59-65.

**19.** In case, on any such complaint or appeal, the assessment is varied in respect of the property which is the subject of the complaint or appeal, the Court or Judge, as the case may be, shall vary *pro rata* the assessment of the said property and of the other lands and roads benefited as aforesaid, without further notice to the persons interested therein, so that the aggregate amount assessed shall be the same as if there had been no appeal; and the Judge or in case there is no appeal to the Judge,

Variation of  
assessment on  
complaints or  
appeals.

the Court of Revision shall return the roll to the Municipal Clerk from whom it was received, and the Assessors shall prepare and attest a roll in accordance with their original assessment as altered by such revision. 40 V. c. 8, s. 57.

When assessment roll to be published in case lands lie in two municipalities.

**20.** Where lands or roads in an adjoining Municipality, or lying between two Municipalities, are assessed, the assessment roll shall not be published, as hereinbefore provided until the amount to be paid by such adjoining Municipality is determined by arbitration or otherwise, as hereinafter provided. 36 V. c. 38, s. 13.

When lands in an adjoining municipality may be charged, though works not carried into such municipality.

**21.** Where the drainage works do not extend beyond the limits of the Municipality in which they were commenced, but in the opinion of the Assessors benefit lands in an adjoining Municipality, or greatly improve any road lying within any Municipality, or between two or more Municipalities, then the Assessors shall charge the lands so benefited and the Corporation or Company whose road or roads are improved, with such proportion of the costs of the work as they may deem just; and the amount so charged for roads, or agreed upon by the Arbitrators hereinafter referred to, shall be paid out of the general funds of such Municipality or Company. 36 V. c. 38, s. 16.

Report as to which municipality shall maintain drainage works.

**22.** The Assessors shall determine and report to the Council of the Municipality which, or inhabitants of which, asked for the drainage, whether the drainage shall be maintained solely at the expense of such Municipality, or whether it shall be constructed and maintained at the expense of both Municipalities, and in what proportion. 36 V. c. 38, s. 17.

Council of municipality wherein work begun to notify municipality to be benefited.

**23.** The Council of the Municipality which, or certain inhabitants of which, applied for the drainage, shall serve the Head of the Council of the Municipality into which the same is continued, and whose lands or roads are benefited without the drainage being continued, with a copy of the assessment roll aforesaid, so far as it affects such last mentioned Municipality; and unless the same is appealed from, as hereinafter provided, it shall be binding on the Council of such Municipality. 36 V. c. 38, s. 18.

Council of municipality wherein work not begun to raise money.

**24.** The Council of such last mentioned Municipality shall be bound, as if they had petitioned for such drainage, as provided in the fourth section of this Act, to raise such sum as may be named in the assessment roll, or in case of an appeal, for such sum as may be determined by the Arbitrators hereinafter mentioned. 36 V. c. 38, s. 19.

Council of municipality wherein work not begun may

**25.** The Council of the Municipality into which the drainage works have been continued, or whose lands, road or roads are benefited without the drainage works being carried within its



limits, may, within ten days from the day in which the copy of the assessment roll was served on the Head of the Municipality appeal therefrom; in which case they shall serve the Head of the Corporation from which they received the assessment roll with a written notice of appeal.

2. Such notice shall state the grounds of appeal, the name of an Arbitrator, and call upon such Corporation to appoint an Arbitrator in the matter on their behalf, within ten days after the service of such notice; and in default thereof it shall be lawful for the Council of the Municipality so appealing to appoint such second Arbitrator, and the two Arbitrators so appointed shall forthwith appoint a third Arbitrator in the matter.

3. In no case shall the Assessors, or any of them, or a member or officer of any Council concerned, be appointed or act as Arbitrator. 36 V. c. 38, s. 20.

26. If, after the Arbitrators have been appointed as aforesaid, they fail or neglect for the space of six days to appoint a third Arbitrator, the Judge of the County Court of the County in which the Municipality appealing is situated, shall, within four days after a request in writing made upon him by either of the two Arbitrators appointed as above, appoint a third Arbitrator. 36 V. c. 38, s. 21.

27. The Arbitrators, before proceeding to try the matter of the arbitration, shall take and subscribe the following oath (or in case of those who affirm, make and subscribe the following affirmation) before any Justice of the Peace; which oath or affirmation shall be filed with the award:—

“I, A. B., do swear (or affirm) that I will well and truly try the matter referred to me by the parties, and a true and impartial award make in the premises, according to the evidence and my skill and knowledge: So help me God.” (*Or in case of affirmation, “All of which I do solemnly affirm.”*)

36 V. c. 38, s. 22.

28. The Arbitrators shall, within ten days after the appointment of the third Arbitrator, meet at such place as they may agree upon, and shall then hear and determine the matter in dispute, and make their award, which shall be binding on all parties; and one copy thereof shall be filed with the Clerk of each of the Municipalities interested, one shall be filed with the Registrar of Deeds for the County or Riding in which either of the Municipalities is situate, and one with the Commissioner of Public Works. 36 V. c. 38, s. 23.

29. In case of difference between the Arbitrators, the decision of any two of them shall be conclusive. 36 V. c. 38, s. 24.

appeal; arbitration thereon.

Appointment of third arbitrator by County Judge

Oath by arbitrators.

Award.

Filing.

Decision of majority of arbitrators conclusive,

Repairs and maintenance of work after completion, where works are in more than one municipality.

**30.** It shall be the duty of each Municipality, in the proportion determined by the Assessors or Arbitrators (as the case may be), or until otherwise determined by the Assessors or Arbitrators, under the same formalities, as near as may be, as provided in the preceding sections, to preserve, maintain and keep in repair any drainage works executed under the foregoing provisions within its own limits, either at the expense of the Municipality, or parties more immediately interested, or at the joint expense of such parties and the Municipality, as to the Council, upon the report of the Assessors, when finally passed, may seem just. 36 V. c. 38, s. 25.

Where only in one municipality.

2. In any case wherein, after such drainage works have been fully made and completed, the same have not been continued into any other Municipality than that in which the same were commenced, or wherein the lands or roads of any such other Municipality are not benefited by such drainage works, it shall be the duty of the Municipality making such drainage works, to preserve, maintain, and keep in repair the same at the expense of the lots, parts of lots, and roads, as the case may be, as agreed upon and shown in the assessment roll when finally passed. The Council may from time to time change such assessment roll on the report of an engineer appointed by them to examine and report on such drains and repairs. 36 V. c. 38, s. 25.

Refusal to repair.

3. Any Municipality liable to keep in repair any such drainage works and neglecting or refusing so to do, upon reasonable notice in writing being given by any party interested therein, shall be compelled by *mandamus* to be issued from any Court of competent jurisdiction to make from time to time the necessary repairs to preserve and maintain the same; and shall be liable to pecuniary damage to any person who or whose property is injuriously affected by reason of such neglect or refusal. 36 V. c. 38, s. 25.

Case of a drain being used by another Municipality, &c.

**31.** Should a drain, constructed under the provisions of this Act, be used as an outlet, or otherwise, by any other Municipality, Company, or individual, such Municipality, Company, or individual using the same as an outlet or otherwise may be assessed for the construction and maintenance thereof in such proportion and amount as may be ascertained by the Assessors or Arbitrators, under the formalities provided in the preceding sections. 36 V. c. 38, s. 26.

Ditch along road.

Timber or stumps in the road.

Construction of the road.

**32.** Where a ditch is being constructed along a road allowance, contracts may be made for spreading the earth taken from the ditch on the road; and if the road or any part thereof is timbered, or if stumps are in the way, the timber shall be removed; and not less than twelve feet of the centre of the road shall be grubbed before the earth is spread upon it. 36 V. c. 38, s. 27.

**33.** The removal of the timber, grubbing, and spreading of the earth, together with such portion of the cost of the ditch as the Assessors may deem just and proper, shall be charged to the Municipality and paid out of its general funds. 36 V. c. 38, s. 28. Charges for grubbing, &c.

**34.** The Council of the Municipality which asked for the drainage, or where the drainage was asked for by a majority of the owners resident on the land to be drained or benefited, or by a majority of all the owners, then the Council of such Municipality shall within one month after the assessment roll has been finally settled by the Court of Revision, Judge or Arbitrators (as the case may be), deposit a duplicate of the same with the Commissioner of Public Works, and a duplicate of the same shall also be deposited with the Registrar of the County or Riding in which the said lands are situated, or if they are situated in more Counties or Ridings than one, then with the Registrar of each of such Counties or Ridings, together with a proper map or plan annexed thereto, describing the Township and the several lots or parcels of land, and road or roads to which such assessment roll or award relates; and the Registrar is hereby required to receive the same, and to endorse thereon the date at which it was deposited with him; and such assessment roll, when so finally settled and deposited, shall be binding and conclusive on all parties: and a copy thereof, certified by any such Registrar, shall be evidence that the assessment was duly done. 36 V. c. 38, s. 29. Deposit of duplicates of assessment roll.  
Proof of assessment roll.

**35.** The Council of every Municipality within which or along any town line of which drainage works have been completed, shall within three months after the assessment roll has been finally settled, pass a by-law, requiring that the amount of money to be collected and charged on the several lots or parcels of land or roads by such Municipality shall be placed on the Collector's roll, from year to year, to be collected and paid over as prescribed in the following sections. 36 V. c. 38, s. 30. Councils to pass by-laws to collect assessments.

**36.** The respective sums of money which, by the said assessment roll, are specified as the proportions or contributions payable in respect of the roads or several parcels or lots of land so drained, or improved by drainage, or by any works under *The Act respecting the Public Works of Ontario*, towards the total amount of the sums expended on and about such drainage or improvements as aforesaid, shall be charged on such several parcels or lots of land, and that in preference to and with priority over all incumbrances on such land, in manner following, that is to say, each several parcel or lot of land shall be charged with a payment to Her Majesty of a rent-charge after the rate of seven and sixty one-hundredth dollars per centum per annum rent for every one hundred dollars charged on such several parcels or lots, or roads, and so in proportion for every lesser amount, Assessment to be a first charge on the land.  
Rev. Stat. c. 30.  
payable by way of rent-charge.



to be payable for the term of twenty-two years, to be computed from the first day of January in every year; the first of such payments to be made on the first day of January next after the final settlement or revision of the assessment roll. 36 V. c. 38, s. 31.

Collection of  
rent-charge.

**37.** Every rent-charge which shall have become charged on land by virtue of this Act, shall, except as hereinafter provided, be entered by the Clerk of the Municipality in which the said land is locally situate, in a column of the Collector's roll, to be headed "*Charge under Drainage Act*," and shall be collected and be recoverable by the Council of the said Municipality, by the same means and in the like manner in all respects as municipal rates and taxes are collected and recoverable under "*The Assessment Act*;" and the amount thereof shall be remitted by the local Treasurer to the Treasurer of the Province, within the space of one month after the same has become exigible, with interest at the rate of seven per centum during the non-payment. 36 V. c. 38, s. 32.

Rev. Stat.  
c. 180.

Remittance to  
Provincial  
Treasurer.

Municipal  
Council to  
remit annual  
rent-charge,  
though not  
collected.

**38.** The Council of every such Municipality shall assess and levy on the whole rateable property within its jurisdiction a sufficient sum in each year to enable the local Treasurer, over and above the other valid debts of the Corporation falling due within the year, to pay over to the Treasurer of the Province the amount of such rent-charge, within the space aforesaid, whether the same has been previously recovered from the parties or lands charged with the same or not; and the amount hereby appointed to be remitted by the local Treasurer to the Treasurer of the Province shall be the first charge upon all the funds of the Municipality, for whatever purpose, or under whatever by-law they may have been raised. 36 V. c. 38, s. 32.

Provisions for  
securing pay-  
ment to Pro-  
vincial Treas-  
urer.

Penalty on  
Treasurers,  
Reeve, &c., for  
neglect to see  
that remit-  
tance made.

**39.** No Treasurer or other officer of the Municipality shall pay any sum whatsoever, except for the ordinary current disbursements and salaries of clerks and other employees of such Municipality out of any funds of the Municipality in his hands, until the sum then payable by the municipal Treasurer to the Treasurer of the Province, in respect of such rent-charge has been paid to him; and if any such Treasurer or municipal officer pays any sum out of the funds of his Municipality, except as aforesaid, contrary to the provisions hereinbefore made, in addition to any criminal liability which he may thereby incur, he shall be liable to the Treasurer of the Province for every sum so paid as for money received by him for the Crown; and any Reeve or Councillor wilfully or negligently omitting to see the foregoing provisions carried into effect, shall also be personally and individually liable to the Treasurer of the Province, for the full amount of the said rent-charge, which may be recovered with costs by the said Treasurer of the Province in any suit as for money had and received for Her Majesty's behoof. 36 V. c. 38, s. 32.

**40.** If the assessment roll is not finally revised in time to place the instalment of rent-charge payable for the current year in the Collector's roll, or if for any cause it is left off the roll for that year, then such instalment, with five per cent. added thereto, shall in addition to the instalment for such year be placed in the Collector's roll for the following year. 38 V. c. 25, s. 1. (2.)

The case of assessment roll not being revised, or instalment left off the roll.

**41.** The owner of any parcel or lot assessed for such drainage works may, within one month from the time that the assessment roll has been finally revised, discharge his parcel or lot from the rent-charge by paying to the Treasurer of the Municipality the amount assessed against such parcel or lot; and thereafter, in case all rents placed upon the Collector's roll have been duly paid, may discharge the same by paying to the Treasurer the amount of such assessment less two forty-fifths thereof if one year's rent has been paid, and less four forty-fifths thereof if the rent for two years has been paid, and in like manner deducting from the amount of the assessment two forty-fifths thereof for each year's rent that has been paid. 38 V. c. 25, s. 1. (3.)

How the owner of land assessed may discharge it from the rent-charge.

**42.** Upon receiving payment of the amount required in order to discharge any parcel or lot, the Treasurer shall make out in duplicate a certificate (to which the Clerk shall affix the seal of the Municipality) to the effect or in the form following:—

Certificate of discharge.

"I, A. B., Treasurer of the Township of G., in the County of X., do hereby certify that the sum of \$                      was in 18                      assessed against lot                      in the                      concession of the said Township on account of Drainage Works under an assessment roll deposited with the Registrar of the County of X., on the                      day of 18                      . That a rent-charge of \$                      per annum has been paid in respect of such assessment for                      years, and the sum of \$                      is now paid by C. D., in discharge of the rent-charge imposed on account of the said assessment, and the said lot is therefore discharged therefrom."

38 V. c. 25, s. 1. (4.)

**43.** The Treasurer shall retain one of such certificates, and deliver the other to the person paying off the charge, and with the next remittance in respect of rent-charges made by him to the Treasurer of the Province shall remit the amounts received by him for the purpose of paying off any rent-charges, and shall transmit therewith the duplicate certificate of discharge retained by him. 38 V. c. 25, s. 1. (5.)

Treasurer's duty as to discharges and remittances.

**44.** Upon the production of a certificate of discharge under the corporate seal of the Municipality, the Registrar shall number and file the same, and upon the line on which such parcel or lot is entered upon the assessment roll shall write, "*Discharged by No.*" (giving the registry number of the discharge). 38 V. c. 25, s. 1. (6.)

Registry of discharge.

Fees.

**45.** The Treasurer for making out such discharge in duplicate, and the Registrar for registering the same, shall be each entitled to charge a fee of fifty cents. 38 V. c. 25, s. 1. (7.)

If land improved by some other than the proprietor under some agreement, the assessors to determine the increased rent or tax to be paid.

**46.** In case any land which has been drained or improved by drainage under this Act is not, at the time of making the said assessment roll, in the actual possession of the owner or proprietor, but is held under him by some other person or persons by virtue of a lease, agreement or other instrument having more than one year to run, then and in such case the said Assessors shall determine the amount of increased rent or tax which such tenant or occupant shall pay in consequence of any improvement in such land, regard being had to the duration, extent and value of the interest of such occupant in the premises, and to the particular circumstances of the case; and the landlord of such tenant and occupant shall have the same remedies for the recovery of such increased rent as he was entitled to for the rent originally stipulated.

Remedy therefor.

Case of payment by occupant of the rent-charge.

2. The decision of the said Assessors shall be signified by endorsement on the lease or instrument under the hands of the said Assessors; and every such tenant and occupier who pays for the land in his occupation any sum charged thereupon, under and by virtue of the provisions of this Act, shall be and he is hereby authorized to deduct and retain out of his rent the amount of the sum of money which he so pays as aforesaid; but nothing herein contained shall extend, or be construed to enable any occupier or lessee to deduct from his rent any costs or expenses incurred by non-payment of the moneys hereby imposed or authorized to be paid. 36 V. c. 38, s. 33.

In case of Crown Lands, Commissioner of Crown Lands to pay rent-charge.

**47.** Wherever a rent-charge has become charged on land belonging to Her Majesty, the said rent-charge shall not be levied or collected by the Council of the Municipality in which the said land is situated, or their Collector, Treasurer or officer, but the said rent-charge as it falls due, or in lieu thereof the principal sum to which the said rent-charge corresponds, shall be paid over by the Commissioner of Crown Lands to the Treasurer of the Province for Her Majesty's behoof, and the sum or sums so paid over shall be entered by the said Treasurer in the separate account hereinbefore appointed to be opened in the books of his Department; and the said rent-charges, or the principal sums received in lieu thereof, and also all other rent-charges or principal sums received in lieu thereof, may continue to be applied in carrying out the purposes of this Act. 36 V. c. 38, s. 34.

Separate accounts therefor.

Disputes as to boundaries to be settled by the Assessors.

**48.** If any dispute or difference arises between any persons interested or claiming to be interested in any land or water to be drained or improved in pursuance of this Act, touching and concerning any boundaries, or any other rights or interests which the said persons, or any of them, have or claim to have in or over any such land or water, or touching



any other matter relating thereto, it shall be lawful for the aforesaid Assessors, as well by the examination of witnesses upon oath as by all other proper and sufficient evidence, to examine into, hear and determine the same, and such determination shall be binding and conclusive upon all such persons for the purposes of this Act, but not further or otherwise. 36 V. c. 38, s. 35.

**49.** Should any dispute arise between individuals, or between individuals and a Municipality or Company, or between a Company and Municipality, or between Municipalities, as to damages alleged to have been done or to be done to the property of any Municipality, individual or Company, in the construction of drainage works, or consequent thereon, then the Municipality, Company or individual complaining, shall refer the matter to arbitration, as provided in "*The Municipal Act*:" and the awards so made shall be binding on all parties. 36 V. c. 38, s. 36.

Disputes as to damages to be referred to arbitration.

Rev. Stat. c. 174.

**50.** In cases where two or more Municipalities, which will jointly participate in the benefit of any drainage works, have applied in manner hereinbefore prescribed, to the Commissioner of Public Works, either on the written application of the Council of any such Municipality, or by petition of the majority of all the owners, or of the majority of the owners as shown by the last revised assessment roll to be resident on the property described in the petition, in any such Municipality, or by the Council of one Municipality, and a majority as aforesaid of the owners of land in another Municipality described in the petition for the drainage of such property, and such drainage has been undertaken and completed by the Commissioner of Public Works, and an award for damages has been made under the next preceding section, then the amount so awarded in respect of such damages shall be estimated and assessed as part of the cost of the drainage works which caused them; and all the Assessors appointed by such Municipalities as hereinbefore prescribed, being three in number for each Municipality, or the Official Arbitrators, or the persons appointed by the Commissioner of Public Works, as the case may be, shall act in conjunction in making the assessment throughout each and all of such Municipalities, and such assessment shall be made in the same manner and with the same formalities as are herein prescribed in the case of a single Municipality. 36 V. c. 38, s. 37.

Assessment of municipalities where two or more municipalities derive benefit from drainage works, and damages awarded.

**51.** The Assessors, Official Arbitrators, or persons appointed by the Commissioner of Public Works, as the case may be, shall, when they have completed the assessment mentioned in the preceding section, deposit an attested copy of their assessment roll with the County Judge of the County in which such Municipalities are situate, and such assessments shall be subject to the like appeal to such Judge as assessments in regard to a single Municipality. 36 V. c. 38, s. 38.

Assessment roll to be deposited with County Judge.

Appeals from  
assessment.

**52.** The said Judge shall, upon receiving such assessment roll, forthwith publish it in manner heretofore provided in regard to a single Municipality, together with a notice that he will, at such time, being not earlier than twenty nor later than thirty days from the day on which the assessment roll was first published, and at such place as he may appoint, hear and determine all matters in dispute in regard to such assessment; and his decision thereon shall be absolute and final, and such Judge shall in all such matters have the powers and duties mentioned in section eighteen of this Act. 36 V. c. 38, s. 39.

Cost of pub-  
lication.

**53.** The said Judge shall not be liable, either personally or officially, for the cost of such publication, but shall be considered as acting therein as the duly authorized agent of the Municipalities interested, which alone shall be liable for the said cost, in the proportion to be settled by the said Judge, based upon the proportional amount assessed against each Municipality. 36 V. c. 38, s. 40.

Assessment  
when assessors  
are unable to  
agree.

**54.** Where in the case of two or more Municipalities which will jointly participate in the benefit of any drainage works, an award for damages has been made under section forty-nine, but the Assessors for such Municipalities are unable to agree upon a general assessment throughout each and all such Municipalities, then the three Assessors for any single Municipality may jointly make a separate assessment roll for all such Municipalities, an attested copy of which shall be deposited with the County Judge, and the said Judge, at such time and place as he may appoint, shall hear and determine all differences between the said Assessors as to such assessment, whether as regards the total amount thereof, or as regards the mode in which the same is to be apportioned between the several Municipalities and the lands therein, and the decision of the said Judge on all such matters shall be final and binding upon all the Municipalities interested. 36 V. c. 38, s. 41.

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## CHAPTER 34.

An Act respecting the investment of public money in debentures issued for the construction of Drainage Works by Municipalities.

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Short title, s. 1.	Debentures not to be questioned after investment made, s. 7.
Township undertaking drainage works may apply for sale of debentures, s. 2.	Past investments, s. 8.
Commissioner of Public Works to report as to investment, ss. 3, 4.	Remittance of amount payable on debentures to the Provincial Treasurer, s. 9.
Investment, ss. 5, 6.	

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Municipal Drainage Aid Act*." Short Title.

2. Any Township Municipality proposing to undertake works under the provisions of sections five hundred and twenty-nine to five hundred and fifty inclusive of "*The Municipal Act*" may, after the expiration of the time limited for serving notice of intention to make application to quash the by-law, deposit with the Commissioner of Public Works authenticated copies (if deemed necessary by the Commissioner), of the plans, specifications and estimates of the works, and a copy of the by-law; and may apply for the sale of the debentures authorized thereby. Townships undertaking works under Rev. Stat. c. 174, ss. 529-550, may deposit with Commissioner of Public Works copies of plans, &c.

2. Such application shall be in writing, sealed with the seal of the Municipality, and signed by the Reeve or other head officer thereof, and shall be accompanied by two affidavits, one to be made by the said Reeve or other head officer, in form or to the effect set forth in Schedule A to this Act, and the other to be made by the Clerk of the Municipality, in form or to the effect set forth in Schedule B to this Act; said affidavits to be sworn before any Justice of the Peace. 36 V. e. 39, s. 19; 37 V. e. 20, s. 6; 40 V. e. 7, *Sched. A* (22). And apply for sale of debentures.

3. The Commissioner of Public Works shall investigate and report to the Lieutenant-Governor in Council as to the propriety of the investments proposed in such applications, in the order of time in which they are deposited; and such reports shall be disposed of by the Lieutenant-Governor in Council in the order of time in which the same are made. 36 V. e. 39, s. 20. Commissioner of Public Works to report as to investment.



When the Commissioner shall not report propriety of investment.

4. The Commissioner of Public Works shall not certify to the propriety of the investment in any case in which the aggregate amount of the rates necessary for the payment of the current annual expenses of the Municipality and the interest and principal of the debts contracted by the Municipality exceed the aggregate value of three cents in the dollar on the whole value of the rateable property within its jurisdiction, or in any case in which the debentures to be issued under the by-law exceed thirty thousand dollars; and the amount invested under this Act in the purchase of debentures of any Municipality shall not at any one time exceed twenty thousand dollars. 36 V. c. 39, s. 24; 40 V. c. 8, s. 69.

Purchase out of Con. Rev. Fund of debentures.

5. The Lieutenant-Governor in Council may from time to time in his discretion invest any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any one time the sum of two hundred thousand dollars, in the purchase of any debentures issued under by-laws so deposited as aforesaid, in respect of which the Commissioner of Public Works certifies to the propriety of the investment. 36 V. c. 39, s. 21.

Lieut.-Governor in Council may advance par value of debentures.

6. On any such investment the Lieutenant-Governor may, in his discretion, advance the whole par value of debentures, or may retain such per centage thereof as he may see fit until the Commissioner of Public Works has reported that the works have been inspected and are completed; and any expenses in connection with the investigation and inspection made under this Act shall be deducted from the amount (if any) retained. 36 V. c. 39, s. 22; 37 V. c. 20, s. 5.

When debentures unquestionable.

7. After any such investment has been made, the debentures shall not be questioned, and shall be deemed to be valid to all intents and purposes. 36 V. c. 39, s. 23.

Investment in purchase of debentures by Lt.-Governor in Council made valid.

8. Any investment heretofore made, or which may be hereafter made, by the Lieutenant-Governor in Council in the purchase of debentures issued under any municipal by-law for the construction of Drainage Works, passed under the authority of the Municipal Law of Ontario, shall stand upon the same footing and be as valid and effectual as if such by-law had been passed under the authority of "*The Municipal Drainage Aid Act*," passed in 1873. 37 V. c. 20, s. 4.

Amount payable under by-law to be remitted to Provincial Treasurer.

9. The amount payable in any year under any such by-law or debentures for principal and interest shall be remitted by the Treasurer of the Municipality to the Treasurer of the Province, within the space of one month after the same has become exigible, together with interest at the rate of seven per centum per annum, during the time of default in payment; and in case of the continuance of such default, the Council of the Municipality shall in the next ensuing year assess and levy on the whole rateable property within its jurisdiction, in the same manner in which taxes

Consequences of neglect.

are levied for the general purposes of the Municipality, a sufficient sum to enable the Treasurer of the Municipality, over and above the other valid debts of the Corporation falling due within the year, to pay over to the Treasurer of the Province the amount in arrear, together with interest thereon at the rate of seven per centum per annum, during the time of default in payment, whether the same has been previously recovered from the parties or lands chargeable under the by-law with the same or not; and the amount so in arrear and interest shall be the first charge upon all the funds of the Municipality, for whatever purpose, or, under whatever by-law they may have been raised.

2. No Treasurer or other officer of the Municipality shall after such default, pay any sum whatsoever, except for the ordinary current disbursements, and salaries of clerks and other employees of such Municipality, out of any funds of the Municipality in his hands, until the amount so in arrear and interest have been paid to the Treasurer of the Province.

Duty and liability of municipal Treasurer after default.

3. If any such Treasurer or municipal officer pays any sum out of the funds of his Municipality, except as aforesaid, contrary to the provision hereinbefore made, in addition to any criminal liability which he may thereby incur, he shall be personally liable to the Treasurer of the Province for every sum so paid, as for money received by him for the Crown; and any Reeve or Councillor wilfully or negligently omitting to see the foregoing provisions carried into effect shall also be personally and individually liable to the Treasurer of the Province for the full amount so in arrear and interest, to be recovered with costs by the said Treasurer of the Province, in any suit as for money had and received for Her Majesty's behoof: but no assessment, levy or payment made under this section shall in anywise exonerate the persons or lands chargeable under the by-law from liability to the Municipality. 36 V. c. 39 s. 25.

Liability of Reeves and Councillors.

## SCHEDULE "A."

(Section 2.)

### AFFIDAVIT OF REEVE OR OTHER HEAD OFFICER.

County of \_\_\_\_\_ ) I,  
To Wit, } of the \_\_\_\_\_ of  
in the County of \_\_\_\_\_  
and Province of Ontario, (*Reeve*) of the Township of \_\_\_\_\_  
make oath and say :

1. That I have not been served with any notice of intention to make application to quash a certain by-law passed on the \_\_\_\_\_ day of \_\_\_\_\_

in the year of our Lord \_\_\_\_\_

of \_\_\_\_\_ by the Municipal Council of the said Township \_\_\_\_\_ in regard to the Drainage of \_\_\_\_\_

a certain portion of the said Township, nor have I been served with any notice of intention to make application to quash any part of said by-law, nor with any notice to that or the like effect.

Sworn, &c.

## SCHEDULE "B."

(Section 2.)

### AFFIDAVIT OF CLERK OF THE MUNICIPALITY.

County of \_\_\_\_\_ } I,  
 To Wit. } of the \_\_\_\_\_ of  
 \_\_\_\_\_ in the County of  
 and Province of Ontario, Clerk of the Township  
 make oath and say :  
 \_\_\_\_\_ day of \_\_\_\_\_ in the year  
 \_\_\_\_\_ of our Lord \_\_\_\_\_ the Municipal  
 Council of the said Township of \_\_\_\_\_ passed a by-law in  
 regard to the drainage of a certain portion of the said Township, a true  
 copy of which is now shown to me marked "A."

2. Before the said \_\_\_\_\_ day of \_\_\_\_\_  
 the said by-law, together with a notice that any one intending to apply to  
 have such by-law or any part thereof quashed, must, within ten days  
 after the passing thereof, serve a notice in writing upon the Reeve or  
 other head officer, and upon the Clerk of the Municipality, of his inten-  
 tion to make application for that purpose to one of Her Majesty's Superior  
 Courts of Law at Toronto, during the Term next after the final passing  
 of the by-law, and, together with a notice of the time of holding the Court  
 of Revision of the said Township, was published on (insert dates of publica-  
 tion) in the (insert name of newspaper), a newspaper published at  
 \_\_\_\_\_ in the Township of \_\_\_\_\_ (if published in  
 another Municipality, add: being the nearest Municipality to the said Town-  
 ship of \_\_\_\_\_ in which a newspaper is published. there  
 being no newspaper published in the said Township of \_\_\_\_\_ )  
 a copy of which newspaper containing the said by-law and notice is now  
 shown to me and marked "B."

3. I have not been served with any notice of intention to make appli-  
 cation to quash said by-law, nor with any notice of intention to make  
 application to quash any part thereof, nor with any notice to that or the  
 like effect.

4. To the best of my knowledge, information and belief, no person  
 assessed by the said by-law paid the amount of his assessment less the  
 interest, or any part thereof, at any time before the actual issue of the  
 Debentures thereunder, which were issued on the \_\_\_\_\_ day of  
 \_\_\_\_\_ in the year of our Lord \_\_\_\_\_

5. The amount of the rates assessed as set forth in said by-law have not  
 been altered by the Court of Revision for the said Township of  
 nor by the County Judge, nor has the said by-law been repealed or  
 amended by the said Council of the said Township of  
 but the said by-law is to all intents and purposes the same, and as valid  
 and subsisting as it was when finally passed on the said  
 day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_

6. The copies of the specifications and estimates for the said drainage  
 now shown to me and marked \_\_\_\_\_ are true and  
 authentic copies of the specifications and estimates made by  
 for the said drainage, as mentioned in the said by-law.

Sworn, &c.



## 2. *Expenses of Administration of Justice.*

### CHAPTER 84.

An Act respecting the Fees of Counsel and other Officers in the Administration of Justice.

Fees of Counsel and Attorneys, s. 1.	Fees for other services, s. 5.
Fees of Sheriffs and Coroners, Clerks of the Peace, Constables and Criers, ss. 2, 3.	Penalties for taking unauthorized fees, ss. 6, 7.
Mode of levying, s. 4.	Fees of Gaol Surgeons, s. 8.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

1. When not otherwise provided by law, the Courts of Queen's Bench and Common Pleas may from time to time jointly determine and by Rule or Order declare the fees to be allowed to any Counsel, Attorney, or other such officer or person for or in respect of any business done or transacted in either of the said Courts in criminal prosecutions, and in all matters, causes and proceedings which relate to the Queen's Revenue, and in all prosecutions, matters and proceedings under any Commission or Court of Oyer and Terminer and General Gaol Delivery, or under any Special Commission or Court of Oyer and Terminer. C. S. U. C. c. 119, s. 1.

The Superior Courts of Law to frame tariff of fees to be allowed to Counsel, &c., in criminal and Exchequer cases.

2. The Judges shall, in tables to be by them framed as aforesaid, distinguish the fee to be paid by private individuals. C. S. U. C. c. 119, s. 3.

2. The table of fees in the Schedule appended to this Act, shall be and constitute the fees to be taken by Sheriffs, Coroners, Clerks of the Peace, Constables and Criers respectively, for the services therein mentioned in respect of any business by them done and transacted in all such prosecutions, matters, causes and proceedings as aforesaid, and in proceedings in the County Judge's Criminal Court and before Coroners or Justices of

Fees in criminal matters—to Sheriffs, Coroners, Clerks of the Peace, &c.

the Peace, until otherwise provided by Act of the Legislature, or, in the case of Constables, by the Lieutenant-Governor, under the provisions of the next section. 32 V. c. 11, ss. 2 & 3; 33 V. c. 10, s. 1; 37 V. c. 7, s. 73.

**Fees to constables.** 3. The Lieutenant-Governor in Council may from time to time fix the fees to be taken by Constables for services rendered by such officers in the administration of criminal justice or in any proceedings had before Coroners or Justices of the Peace. 37 V. c. 7, s. 73.

**Mode of levying fees.** 4. All percentage, fees or allowances, on levying fines and recognizances, may be levied over and above the amount of such fines and recognizances. C. S. U. C. c. 119, s. 3.

**Fees for services not mentioned herein.** 5. Nothing herein contained shall deprive any of the before mentioned officers of such fees as are allowed by any Act of Parliament, or of the Legislature of this Province, for other services not herein provided for. C. S. U. C. c. 119, s. 6.

**Penalty for any officer taking higher fees for the said services.** 6. If any officer hereinbefore mentioned wilfully and knowingly demands or receives any other or greater fee or allowance than the fee and allowance to which he is entitled under this Act, for any of the services performed by them respectively, (unless allowed by some other Act of Parliament, or of the Legislature of this Province or by the Lieutenant-Governor in Council, under section three of this Act,) he shall, for every such offence, forfeit and pay the sum of forty dollars to any person who sues therefor in any Court having competent jurisdiction to hear and determine the same. C. S. U. C. c. 119, s. 8.

**Limitation of suits for penalties.** 7. All such suits and actions must be brought before the end of six months after the offence was committed, and not otherwise. C. S. U. C. c. 119, s. 9.

**Fees of Gaol Surgeons.** 8. There may be paid to Gaol Surgeons for the examination of each prisoner eligible for removal, or sentenced to the Central Prison, including certificate, the fee of one dollar. 38 V. c. 24, s. 2.

SCHEDULE.

(Section 2.)

TABLE OF FEES TO BE RECEIVED BY SHERIFFS, CORONERS, CLERKS OF THE PEACE, CONSTABLES AND CRIERS:

SHERIFFS.

1. Attending the Assizes, <i>per diem</i> .....	\$5 00
2. Attending the General Sessions, do.....	4 00

3. Summoning each Grand Jury for the Assizes or General Sessions.....	\$12 00
4. Summoning each Petit Jury for the Assizes or General Sessions.....	24 00
5. For every Prisoner discharged from Gaol, having been committed by warrant for trial at the Assizes or General Sessions.....	1 00
6. Bringing up each Prisoner for arraignment, trial, and sentence—in all, for each prisoner, whether convicted or acquitted ..	2 00
7. Drawing Calendar of Prisoners for trial at the Assizes, including copies....	5 00
8. Advertising the holding the Assizes .....	4 00
9. Advertising the holding the General Sessions ..	2 00
10. Every Annual or General Return, required by law or by the Government, respecting the Gaol or the Prisoners therein..	5 00
11. Every other Return made to the Government.....	4 00
12. Every Return to the Sessions required by Statute or by order of the Court ....	2 00
13. Drawing Calendar of Prisoners for trial at the General Sessions, including copies...	3 00
14. Returning Precepts to the Assizes or Sessions ..	4 00
15. Conveying Prisoners sentenced at Assizes or Sessions, to the Penitentiary or Reformatory or to another County (exclusive of disbursements), for each day necessarily employed.....	6 00
16. Arrest of each individual upon a warrant, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	2 00
17. Serving subpoena upon each person, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ) ..	50
18. Travelling in going to execute warrant or serve subpoena, or in returning with a prisoner ( <i>to be paid out of the County funds, or by the party, as the case may be</i> )....	10
( <i>Where the service has not been effected, the Board of Audit is to be satisfied that due diligence has been used.</i> )	
19. Conveying Prisoners on Attachment, Judge's Order or Habeas Corpus to another County, exclusive of disbursements, where no charge allowed by law, for each day necessarily employed, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	6 00
20. Making return upon attachment or writ of Habeas Corpus, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	2 00
21. Levying fines or issues on recognizances estreated, or other process ( <i>to be levied under Section four of Rev. Stat. c. 84</i> ).....	\$5 per \$100 on the first \$400 of the sum levied, exclusive of mileage at 10 cents. per mile, and on all sums above \$400 the same allowance as on executions in civil proceedings.
22. Carrying into execution the sentence of the Court in capital cases... ..	All such sums as are unavoidably disbursed, to be taxed by the Court or Judge who passed the sentence.
23. Attending and superintending the execution in such cases...	20 00
24. Summoning each Constable to attend the Assizes or General Sessions (exclusive of mileage at 10 cents a mile) .....	50
25. Keeping a Record of Jurors who have served each Court.....	2 00
26. All disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the Penitentiary or Reformatory, to any other County or else-	



where, or for other purposes in the discharge of the duties of his office (where not provided for by law, nor hereinbefore specifically provided) ; to be rendered in account in detail, with proper vouchers, to the satisfaction of the Board of Audit, and to be by the Board allowed.....

32 V. c. 11 *Schedule.*

*For services in the County Judge's Criminal Court.*

27. Notification to Judge, and bringing up prisoner, under Judge's warrant, including attendance at Court—in all for each prisoner..... \$1 00
28. Bringing up prisoner for arraignment on trial, and for sentence, including attendances at Court—in all for each prisoner, whether convicted or acquitted.... 2 00
29. For serving subpœnas, arrest under warrant, travel to serve or execute a process, and conveying prisoner to Penitentiary or Reformatory,—*the like sum as is allowed for like services in other cases under this Act.*

33 V. c. 10, s. 1.

*For Services in connection with offenders sentenced, or liable to be removed, or sentenced to the Central Prison.*

30. For making special return of prisoners sentenced to Central Prison, and of such prisoners eligible for removal to Central Prison, as the Inspector may direct (each prisoner)..... 1 00  
(*No more than \$5 to be allowed for any one return, and each return must cover all prisoners in gaol when the same is made.*)
31. Certified copy of sentence..... 0 50
32. Taking prisoner to railway station, to be delivered to Central Prison Bailiff, in addition to other necessary expenses incurred in such duty. .... 1 00

38 V. c. 24., s. 2.

CORONERS.

1. Precept to summon Jury ..... \$ 50
2. Empannelling a Jury ..... 1 00
3. Summons for witnesses each..... 25
4. Information or examination of each witness..... 25
5. Taking every recognizance..... 50
6. Necessary travel to take an inquest, per mile..... 20
7. Taking inquisition and making return... .. 4 00
8. Every warrant..... 1 00

*Tariff of Fees established in Michaelmas Term, 1845 : 32 V. c. 10, s. 3.*

CLERKS OF THE PEACE.

1. For drawing Precept to summon the Grand and Petit Jury, attending Justices to sign same, and transmitting to the Sheriff.... 4 00
2. Attending each General Sessions..... 6 00

3. Making up Record of each General Sessions.....	\$10 00
4. Notice of every appointment of a Constable, under Rev. Stat. c. 82, or other officer appointed by the Justices in Sessions, and notice of any order made by the General Sessions, when required to be notified to any person or party.....	20
5. Subpœna, ( <i>to be paid out of the County funds or by the party applying, as the case may be</i> ) .....	50
6. Bench Warrant.....	1 00
7. Every Recognizance of the Peace for good behaviour.....	1 00
8. Discharging the same.....	50
9. Making up Estreats of each Session. ( <i>See Rev. Stat. c. 88 s. 7</i> ) .....	1 00
10. Every allowance of Certiorari, ( <i>to be paid by the party applying</i> ).....	1 00
11. Furnishing to Sheriff and Coroners revised lists of Constables, whenever ordered to be done by the Justices in General Sessions.....	1 00
12. Reading any Statute or public Proclamation when required to be done by law .....	25
13. Copies of Depositions or Examinations furnished to Prisoners, Defendants, or their Counsel, when required, ( <i>to be paid out of the County funds, or by the party applying, according to the nature of the case,</i> ) per folio of 100 words.....	05
14. Receiving, filing and reading each Presentment of the Grand Jury.....	50
15. For copy thereof forwarded to the Government, or to the County Council, when directed by the General Sessions.....	50
16. Arraigning each Prisoner or Defendant indicted, ( <i>to be paid out of the County funds, or by the party applying, as the case may be</i> ).....	50
17. Empannelling and swearing the Jury in every case, whether criminal or otherwise, where by law a trial by Jury is to be had at the General Sessions, and where no fee is fixed by statute, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	50
18. Swearing each Witness upon any trial by a Jury, or to go before the Grand Jury, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	20
19. Filing each Exhibit on a trial, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	08
20. Every Subpœna Ticket, or copy of Subpœna, when necessary, ( <i>to be paid out of the County funds, or by the party applying, as the case may be</i> )... ..	20
21. Charging the Jury with the Prisoner or Defendant, upon each indictment, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	1 00
22. Receiving and recording each Verdict of a Petit Jury, in any case of trial by Jury, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	50
23. Recording each Judgment or Sentence of the Court upon a Verdict or Confession, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	50
24. Making out and delivering to the Sheriff a Calendar of the Sentences at each Court.....	1 00
25. Certified copy of Sentences sent with the Prisoners to the Penitentiary or Reformatory, after each Session.....	50
26. Making up Record of Conviction or Acquittal, in any case where it may be necessary, ( <i>to be paid out of the County funds, or by the party applying, as the case may be,</i> ) per folio of one hundred words .....	10

27. Every Copy or Extract of a record or Paper of any kind, required to be made by Law, or by order of the Justices in Sessions, or for the information and use of the Government, when required, and where no charge is fixed by law—if the same is less than 10 folios of one hundred words each, ( <i>to be paid out of the County funds or by the party applying, as the case may be</i> ) .....	\$1 00
28. If above 10 folios, then for each folio, ( <i>do.</i> <i>do.</i> ) .....	10
29. Discharging any Prisoner by Proclamation.....	50
30. Drawing Bill of Costs, including taxation and filing the same where necessary to be made and filed, as in cases of assault, nuisances or the like, and in Appeals, ( <i>to be paid by the party</i> ).....	50
31. Drawing out and taking each Recognizance to appear, either of Prosecutor, Defendant or Witness, ( <i>to be paid out of the County funds or by the party, as the case may be</i> ) .....	50
32. Calling parties on their Recognizance, and recording their non-appearance, for each person called, ( <i>only to be charged where the parties do not answer, and to be paid out of the County funds or by the party, as the case may be</i> ).....	25
33. Drawing order of the Sessions or Judge to estreat and put in process, ( <i>on the whole list</i> ) .....	50
34. Entering any order of Sessions, or of the Judge who presided at the Sessions, to remit any Estreat, and recording an entry of the same, ( <i>to be paid out of the County funds or by the party relieved, as may be ordered</i> ).....	25
35. Entering and extracting upon a Roll in duplicate, the fines, issues, amerciaments, and forfeited Recognizances, recorded in each Session, making oath to the same, and transmitting to the Sheriff.....	2 00
36. Making out and delivering to the Sheriff the writ of <i>feri facias</i> and <i>capias</i> thereon.	50
37. Making out and certifying copy of Roll and return of the Sheriff, and transmitting it to the Provincial Treasurer. ( <i>See Rev. Stat. c. 88, s. 16</i> ) .....	1 00
38. Making up Book of Orders of Sessions, declaring the limits of the Division Courts, and entering the times and places of holding the Courts.....	1 00
39. Making out and transmitting a copy thereof to the Government.....	1 00
40. Making out and transmitting copies (with letter) to the Clerk of each Division Court, of the Divisions made by the General Sessions.....	1 00
41. Drawing Orders of Sessions for altering the limits of Division Courts .....	1 00
42. Making out and transmitting copies of such Orders to the Government.....	50
43. Making out and transmitting copies of such Orders to each Division Court affected by the alteration.....	50
44. For each copy of Schedule of the Division Courts, with the Order of Sessions, for publication.....	50
45. For every Search under three years, ( <i>to be paid by the party making the search</i> ). .....	20
46. For the same, extending over three years, ( <i>do</i> <i>do</i> <i>do</i> ) .....	50
47. For every Certificate required of proof of a Deed, ( <i>to be paid by the party applying for the same</i> ).....	1 00
48. For every other Certificate required by Law, or by Order of the Sessions, to be given, where the same is under five folios, ( <i>to be paid out of the County funds, or by the party applying for the same, according to the nature of the case</i> ).....	50
49. For the same, if more than five folios, per folio ( <i>do</i> <i>do</i> ) .....	10



50. Copying Orders of Court, and causing same to be published, where it is requisite, for each Order, exclusive of the expense of publication.....	\$ 50
51. Receiving and filing affidavit of Bastardy, ( <i>see Rev. Stat. c. 131, s. 3</i> ) ( <i>to be paid by the party producing it</i> ) .....	25
52. Receiving and filing each tender for any Public work, or supply, or printing, or other service.....	25
53. Making out a list of the several tenders on each occasion, as they are opened, specifying the names, prices, and other particulars, and filing the same, when required to be done by the Justices.....	50
54. Drawing bonds or agreements for the delivery of articles, or for doing the work for the Gaol or other County purposes, and attending execution, when required by the Justices.....	1 00
55. Receiving and filing accounts and demands, preferred against the County, numbering them, and submitting them for audit, and making out the cheques.....	4 00
56. Making out and delivering lists of orders on the Treasurer, made at each audit....	2 00
57. Making out and transmitting to the Provincial Treasurer, a Return or Schedule of all Convictions, ( <i>see Rev. Stat. c. 76, s. 7</i> ), which have taken place before any Justice or Justices, or before the Court, each list.....	1 00
58. Making out the annual account to be laid before the Grand Jury at the General Sessions ( <i>see Rev. Stat. c. 179</i> ), of the sum necessary to be provided for maintenance of insane persons .....	1 00
59. For every report or return required by Statute, or by the Government, where no remuneration has been provided by this Table or by Statute.....	1 00
60. Making out and transmitting a return to the Government of Justices and Coroners who have taken the Oaths, when required to be done, for each return.....	1 00
61. Drawing every special Order of the Court of General Sessions, necessary to be communicated to any party, and entering it on Record.....	50
62. Letter, and transmitting or delivering to the party interested or affected thereby.	25
63. Swearing each party to an Affidavit, where no charge is elsewhere provided for it, ( <i>to be paid out of the County funds, or by the party for whom the Affidavit is sworn, according to the nature of the case</i> ).....	20
64. Causing notice to be published of any special or adjourned Sessions, when directed by the Chairman of the General Sessions, or other two Justices, so to do; exclusive of the amount paid the printer for publication.....	1 00
65. Sending notice of any such Session to the Justices individually, when it is directed by the Chairman, or other two Justices—for each notice .....	10
66. Attending each adjourned or special Sessions, and making up record thereof .....	2 50
67. Receiving and filing Notices of Appeal, and the Appeal from any judgment or conviction by one or more Justices, where an Appeal to the General Sessions is given by Law, ( <i>to be paid out of the County funds, or by the party appealing, as the case may be</i> ) .....	25
68. When the appeal called on, reading the Conviction, Notice of Appeal, and Recognizance, ( <i>to be paid out of the County funds, or by the party appealing, as the case may be</i> ) .....	50
69. For all other Services upon the Trial of such Appeal case, when tried by a jury, including the receiving and recording the Verdict ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ),.....the same charges as in ordinary criminal trials.	

70. Issuing Process to enforce the order of the Court in an Appeal case, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	\$1 00
71. Making out Warrant of Distress or Commitment, in any case where no fee is specially assigned therefor in any Statute, or in this Table.....	1 00
72. Drawing certificate of approval by the Justices in Sessions, of sureties tendered by the Sheriff, ( <i>to be paid by the Sheriff</i> ) .....	50
73. Administering Oaths to any Public Officer, when authorized so to do, ( <i>to be paid by the officer</i> ) .....	25
74. Receiving and filing each Oath of Qualification of a Justice of the Peace .....	25
75. For every Letter written to the Government, every Letter written by direction of the Chairman, or of the Justices in Sessions, or Board of Audit, to Justices, Coroners, or Constables, or others, upon special business connected with the Administration of Justice, or County purposes .....	25
76. For distributing the Statutes to the Justices and County Officers, or others, when directed by Statute or the Government so to do, and taking receipts therefor from each Justice or Officer.. ..	10
77. For accounting to the County Member for the copies of Statutes not called for by the Justices and County Officers, and delivering the same to him, wherever such duty is required by Statute, or by the Government and no other fee allowed... ..	1 00
78. For procuring and supplying to Clergymen and Ministers all Books and Forms required under Rev. Stat. c. 124, s. 17, for each Book with the necessary set of Forms .....	25
79. For receiving and filing Voters' Lists under Rev. Stat. c. 9, ss. 11 & 12, each list... ..	25
80. For filing each List, Return, or other paper, where no charge is specially provided for, except accounts and claims against the County, and papers connected with matters to be charged against private individuals, ( <i>to be paid out of the County funds, or by the party for whom the service is rendered, according to the nature of the case</i> ).....	05

*For services in County Judge's Criminal Court.*

81. Attending and service in Court, and making all necessary entries for each prisoner brought before the Judge, and not consenting to be tried—in all.....	50
82. For attendance in Court, and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction for each prisoner .....	2 00
83. Preparing Judge's warrant to bring up the body of prisoner, and delivering the same to Sheriff—for each prisoner.... ..	50
84. Issuing Writ of Summons to witness when necessary .....	40
85. Copy of Summons, each .....	20
86. Warrant of remand, when issued and delivered to Sheriff ... ..	50
87. For warrant to arrest, taking and executing recognizances and proceedings to enforce same,..... <i>the same fee, as allowed for like services at the General Sessions of the Peace.</i>	

## CONSTABLES.

1. Arrest of each individual upon a warrant, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	\$1 50
2. Serving summons or subpoena, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> ).....	25
3. Mileage to serve summons, subpoena or warrant, ( <i>to be paid out of the County funds, or by the party, as the case may be</i> )..	10
4. Do. when service cannot be effected, upon proof of due diligence, ( <i>do. do.</i> )	10
5. Do. taking prisoner to gaol, exclusive of disbursements necessarily expended in his conveyance.....	10
6. Attending Justices on summary trials, or on examination of prisoners charged with crime, for each day necessarily employed in one or more cases, when not engaged more than four hours.....	1 00
7. Do. when engaged more than four hours .....	1 50
8. Attending Assizes or Sessions each day.....	1 50
9. Mileage travelling to attend Assizes, Sessions, or before Justices, ( <i>when public conveyance can be taken, only reasonable disbursements to be allowed</i> ).....	10
10. Summoning Jury for Coroner's inquest, including attending at inquest, and all services in respect thereof, if held on same day as Jury summoned.....	2 00
11. Attending each adjournment thereof, if not engaged more than four hours.....	1 00
12. Do. if engaged more than four hours .....	1 50
13. Serving summons or subpoena to attend before Coroner, (subject to No. 10).....	25
14. Mileage serving same.....	10
15. Exhuming body under Coroner's warrant.....	2 00
16. Reburying same.....	2 00
17. Serving distress warrant, and returning same.....	1 50
18. Advertising under distress warrant.....	1 00
19. Travelling to make distress, or to search for goods to make distress, when no goods are found.....	10
20. Appraisements, whether by one Appraiser or more, ..... <i>two cents in the dollar on the value of the goods</i> .....	
21. Catalogue sale and commission, and delivery of goods.. <i>five cents in the dollar on the net produce of the goods</i> .....	
22. Executing search warrant .....	1 50
23. Serving notices on constables, when personally served.....	50

37 V. c. 7, s. 73 ; Order in Council 24 July, 1874.

## CRIERS.

1. Making proclamation for opening or adjourning the Court of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery and General Sessions..... \$0 20



2. Making every other proclamation . . . . .	£ 20
3. Calling and swearing Grand Jury . . . . .	50
4. Calling and swearing every Petit Jury . . . . .	50
5. Calling and swearing every Witness or Constable . . . . .	10
6. Attending Assizes and General Sessions, <i>per diem</i> . . . . .	1 00

*Reg. Gen. Mich. Term, 15 Nov. 1845.*

## CHAPTER 85.

### An Act respecting the Expenditure of County Funds in certain cases.

Fees under Rev. Stat. c. 84, payable by Counties in the first instance, except where for services for the private benefit of individuals, s. 1.	Costs of prosecutions for misdemeanors, s. 4.
Costs of prosecutions for felony, s. 2, 3.	Board of Audit for auditing accounts against Counties, ss. 5-9.
	Order of payment of claims against Counties, s. 10.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Fees payable by Counties, except fees for services for private benefit of individuals.

1. All fees payable under chapter eighty-four of *The Revised Statutes of Ontario* to the officers therein mentioned, on services in the nature of a civil remedy, for individuals at whose instance and for whose private benefit the same are performed, shall be paid by such individuals, and except as herein or otherwise provided by law, all other fees payable to said officers for services connected with the Administration of Justice or County purposes, shall be paid, in the first instance, out of the County funds; and the Counties paying such fees shall be entitled to be reimbursed, out of the Consolidated Revenue Fund, the amount of such of said fees as are payable out of said Fund under the provisions of *The Act respecting the Expenses of the Administration of Justice in Criminal Matters*. C. S. U. C. c. 119, ss. 1, 3 & 10.

Rev. Stat. c. 86.

In cases of felony, costs to be paid out of the County funds.

2. Where any person is prosecuted or tried for felony and convicted or acquitted, or otherwise discharged, the costs of the prosecution, when not otherwise provided by law, shall be paid out of the County funds. C. S. U. C. c. 119, s. 5.

3. In case any person is charged with felony, every officer of the Court before which such person is tried, or any proceeding had with regard to such charge, and who renders any official services in the matter of such charge, or in the course of such trial, to the person so charged with felony, shall be paid his lawful fees for all such services out of the County funds, in the same manner as other fees due and payable to them in respect of official services by them rendered to the Crown in the conduct of public prosecutions, are paid at the time this Act takes effect, and no such fees shall in any case be demanded of or be payable by the person charged with such felony. C. S. C. c. 99, s. 87.

In cases of felony, clerks to be paid fees from the County funds.

4. In case any person is convicted before any Court of General Sessions of any assault and battery, or other misdemeanor, such person shall pay such costs as may be allowed and taxed by the Court; but in case any defendant is acquitted, the costs of the prosecution, when not otherwise provided by law, shall be paid out of the County funds. C. S. U. C. c. 119, s. 4.

By whom costs in prosecution for misdemeanors to be paid.

5. All accounts and demands preferred against the County, the approving and auditing whereof before the nineteenth day of December, 1868, belonged to the Quarter Sessions, shall be audited and approved by the Board of Audit hereinafter mentioned, of the County. 32 V. c. 6, s. 9 (2); 33 V. c. 8, s. 1.

Accounts against County to be audited by a Board of Audit.

6. Such accounts and demands shall be delivered to the Clerk of the Peace of the County on or before the first days of the months of January, April, July and October, in every year. 32 V. c. 6, s. 9 (3); 34 V. c. 29, s. 1.

Accounts to be sent to Clerk of Peace quarterly.

7. Such of the said accounts and demands as have been so delivered, shall be audited by a Board of Audit, composed of the Judge or Junior or acting Judge of the County Court, and two other persons, who shall be appointed annually for that purpose by the County Council of such County or Union of Counties at their first meeting in each year, not more than one of such persons being a member for the time being of such County Council; and such accounts and demands shall be taken into consideration by the said Board of Audit between the first and fifteenth days of the said months of January, April, July and October, in each and every year, and disposed of as soon as practicable. 33 V. c. 8, s. 2; 34 V. c. 29, s. 2. See 36 V. c. 48, ss. 393, 394; and *Rev. Stat. Ont.* c. 174, ss. 474 & 475.

How and when audited.

8. It shall be the duty of the Clerk of the Peace to convene the Board of Audit on the direction of the Judge of the County Court, for the purpose of submitting to such Board the accounts lodged with him, to attend such audit, record the proceedings thereat and carry out the orders of the Board in respect of the

Duties of Clerk of the Peace at audit.

same, as formerly done by him at and after Session audits.  
40 V. c. 8, s. 43.

Orders or  
cheques given  
to express Act  
authorizing  
payment.

**9.** All orders or cheques of the Board of Audit, except for the payment of Constables or services rendered during the sitting of the Court of General Session, shall express the Act, if any, under which the expenditure is authorized. C. S. U. C. c. 121, s. 3, *last part*.

Items disal-  
lowed by  
Prov. Treas.  
may be de-  
ducted from  
next accounts.

**10.** The Treasurer of the County shall furnish the Board of Audit with a copy of the items disallowed by the Provincial Treasurer in the criminal justice accounts of the previous quarter, and the Board shall have power, in their discretion, to deduct the amounts so disallowed from the next, or any accounts of the same officers submitted for audit. 40 V. c. 8, s. 45 (1).

Doubtful  
items in ac-  
counts.

**11.** The said Board shall also have power to direct the Treasurer to defer payment of any accounts, or any items in any of the said accounts, connected with criminal justice, payable out of the Consolidated Revenue Fund of the Province, of which they may have doubt either as to the liability of the Province or the correctness of the amount charged, until the decision of the Provincial Treasurer as to the correctness or allowance of the said items, has been notified to the County Treasurer. 40 V. c. 8, s. 45 (2).

County Trea-  
surer's duty.

**12.** The Treasurer of every County shall, without further authority, pay the amount of the fees which are payable out of County funds, when duly allowed by the Board of Audit, in the following order, and in preference to all other charges unless otherwise provided by law—that is to say, after the expenses of levying and collecting and managing the rates and taxes imposed in the County are paid:

Order of pay-  
ment of  
accounts.

*Firstly*, all sums of money payable to the Sheriff, Coroner, Gaoler, Surgeon of the County Gaol, or to any other officer or person, for the support, care or safe keeping of the prisoners in the County Gaol, or for the repairing and maintaining of the Court House or Gaol:

*Secondly*, the accounts of Public Officers and Officers of the Court of General Sessions:

*Thirdly*, all sums of money payable for any other purpose whatever connected with the Administration of Justice within the County:

*Fourthly* all other sums of money allowed by the Board of Audit in the order in which the same were allowed. C. S. U. C. e. 119, s. 7; C. S. U. C. c. 121, s. 4.



## CHAPTER 86.

## An Act respecting the Expenses of the Administration of Justice in Criminal Matters.

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Certain fees and expenses in the Administration of Criminal Justice payable out of the Con. Rev. Fund, s. 1.  
Auditing of Administration of Justice accounts, s. 2.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

1. Such of the expenses of the Administration of Criminal Justice in this Province as are mentioned in the Schedule to this Act shall be paid out of the Consolidated Revenue Fund of the Province. C. S. U. C. c. 120, ss. 1 & 3; *see also* 32 V. c. 10; 33 V. c. 11.

How expenses of criminal justice payable.

2. All accounts of or relative to the said expenses shall be examined, audited, vouched, and approved under such regulations as the Lieutenant-Governor in Council, from time to time, directs and appoints. C. S. U. C. c. 120, s. 2.

Accounts to be audited in such manner as the Lieut.-Governor in Council appoints.

## SCHEDULE.

## SHERIFF.

1. Attending the Assizes—(*See Tariff Rev. Stat. c. 84, Schedule, item 1*).
2. Attending the General Sessions—(*Tariff, item 2*).
3. Summoning each Grand Jury for the Assizes or General Sessions—(*Tariff, item 3*).
4. Summoning each Petit Jury for the Assizes or General Sessions—(*Tariff, item 4*).
5. For every Prisoner discharged from Gaol, having been committed by Warrant for trial at the Assizes or General Sessions—(*Tariff, item 5*).
6. Bringing up each Prisoner for arraignment, trial and sentence, whether convicted or acquitted—(*Tariff, item 6*).

7. Drawing Calendar of Prisoners for trial at the Assizes, including copies—(*Tariff, item 7*).

8. Drawing Calendar of Prisoners for trial at the General Sessions, including copies—(*Tariff, item 13*.)

9. Advertising the holding of the Assizes or General Sessions—(*Tariff, items 8 & 9*).

10. Every Annual or General Return, required by law, or by the Government, respecting the Gaol or the Prisoners therein—(*Tariff, item 10*).

11. Every other Return made to the Government or to the Sessions, required by statute or by order of the Court—(*Tariff, items 11 & 12*).

12. Returning Precept to the Assizes or General Sessions—(*Tariff, item 14*).

13. Conveying Prisoners to the Penitentiary or Reformatory, or to another County, and disbursements—(*Tariff, item 15*).

14. Arrest of each individual upon a Warrant, (*if payable by the Crown*)—(*Tariff, item 16*).

15. Serving Subpœna upon each person, (*if payable by the Crown*)—(*Tariff, item 17*).

16. Travelling in going to execute Warrant or serve Subpœna, and in returning with Prisoner, (*if payable by the Crown*)—(*Tariff, item 18*).

17. Conveying Prisoners on Attachment, Judge's order or *Habeas Corpus*, to another County, and disbursements, (*if payable by the Crown*)—(*Tariff, item 19*).

18. Making return upon Attachment or Writ of *Habeas Corpus*, (*if payable by the Crown*)—(*Tariff, item 20*).

19. Levying Fines or Issues on Recognizances estreated, and mileage—(*Tariff, item 21*).

20. Disbursements in carrying into execution the sentence of the Court in capital cases—(*Tariff, item 22*).

21. Attending and superintending the Execution in such cases—(*Tariff, item 23*).

22. Summoning each Constable to attend the Assizes or General Sessions—(*Tariff, item 24*).

23. Keeping a Record of Jurors who have served at each Court—(*Tariff, item 25*).

24. All disbursements actually and necessarily made in guarding Prisoners, or in their conveyance to the Penitentiary or Reformatory, or to any other County or District or elsewhere, or for other purposes in the discharge of the duties of his office (when not otherwise provided for), to be allowed by the Board of Audit.—(*Tariff, item 26*).

*For services in the County Judge's Criminal Court.*

25. Notification to Judge and bringing up prisoner under Judge's warrant, including attendance in Court—(*Tariff, item 27*).

26. Bringing up prisoner for arraignment on trial and for sentence including attendances at Court—(*Tariff, item 28*).

27. Serving subpoenas, arrest under warrant, travel to serve or execute process, and conveying prisoners to Penitentiary or Reformatory, (*where payable by the Crown*)—(*Tariff, item 29*).

33 V. c. 10.

*For services in connection with offenders sentenced, or liable to be removed or sentenced to the Central Prison.*

28. Making special return of prisoners sentenced to Central Prison, and of such prisoners eligible for removal to Central Prison, as the Inspector may direct—(*Tariff, item 30*).

29. Certified copy of sentence—(*Tariff, item 31*).

30. Taking prisoner to railway station, to be delivered to Central Prison Bailiff, in addition to other necessary expenses incurred in such duty—(*Tariff, item 32*).

38 V. c. 24

## CORONER.

1. Precept to summon Jury—(*Tariff, item 1*).

2. Accompanelling a Jury—(*Tariff, item 2*).

3. Summons for Witness—(*Tariff, item 3*).

4. Information or Examination of each Witness—(*Tariff, item 4*).

5. Taking every Recognizance—(*Tariff, item 5*).

6. Necessary travel to take an Inquest—(*Tariff, item 6*).

7. Taking Inquisition and making Return—(*Tariff, item 7*).

8. Every Warrant—(*Tariff, item 8*).

## CLERK OF THE PEACE.

1. Drawing precept to summon the Grand and Petit Jury, attending Justices to sign same and transmitting to the Sheriff—(*See Tariff in the Schedule to Rev. Stat., c. 84, item 1*).



2. Attending each General Sessions—(*Tariff, item 2*).
3. Making up Record of each General Sessions—(*Tariff, item 3*).
4. Notice of every appointment of a Constable under Rev. Stat., c. 82, ss. 1 & 4, or other officer appointed by the Justices in Session, and notice of any order made by the General Sessions when required to be notified to any person or party—(*Tariff, item 4*).
5. Issuing Subpœna, (*if payable by the Crown*)—(*Tariff, item 5*).
6. Issuing Bench warrant—(*Tariff, item 6*).
7. Every Recognizance of the Peace for good behaviour—(*Tariff, item 7*).
8. Furnishing to Sheriff and Coroners revised lists of constables, whenever ordered to be done by the Justices in General Sessions—(*Tariff item 11*).
9. Copies of Depositions or Examinations furnished to Prisoners, Defendants, or their Counsel, when required by the party or his Counsel, (*if payable by the Crown*)—(*Tariff, item 13*).
10. Receiving and filing each Presentment of the Grand Jury—*Tariff, item 14*).
11. Arraigning each Prisoner or Defendant indicted, and recording Plea, (*if payable by the Crown*)—(*Tariff, item 16*).
12. Empannelling and swearing the Jury in every case, whether criminal or otherwise, where by law a trial by Jury is to be had at the General Sessions, and when no fee is fixed by statute, (*if payable by the Crown*)—(*Tariff, item 17*).
13. Swearing each Witness upon any trial by a Jury, or to go before the Grand Jury, (*if payable by the Crown*)—(*Tariff, item 18*).
14. Filing each Exhibit upon a trial, (*if payable by the Crown*)—(*Tariff, item 19*).
15. Charging the Jury with the Prisoner or Defendant, upon each indictment, (*if payable by the Crown*)—(*Tariff, item 21*).
16. Receiving and Recording each verdict of a Petit Jury, in any case of trial by Jury, (*if payable by the Crown*)—(*Tariff, item 22*).
17. Recording each Judgment or Sentence of the Court, upon a verdict or confession, (*if payable by the Crown*)—(*Tariff, item 23*).
18. Making out and delivering to the Sheriff a Calendar of the Sentences at each Court—(*Tariff, item 24*).
19. Certified Copy of Sentences sent with the Prisoners to the Penitentiary, or Reformatory after each Session—(*Tariff, item 25*).
20. Making up Record of Conviction or Acquittal, in any case where necessary, (*if payable by the Crown*)—(*Tariff, item 26*).
21. Discharging any Prisoner by proclamation—(*Tariff, item 29*).

22. Drawing out and taking each Recognizance to appear, either of Prosecutor, Defendant or Witness, (*if payable by the Crown*)—(*Tariff, item 31*).

23. Calling parties on their Recognizance and recording their non-appearance, (*if payable by the Crown*)—(*Tariff, item 32*).

24. Making out lists of forfeited Recognizances and Fines to submit to the presiding Judge after each Session in order that they may be estreated.—(*Tariff, item 9*).

25. Entering any Order of Sessions or of the County Judge to remit an estreat and recording an entry of the same, (*if payable by the Crown*)—(*Tariff, item 34*).

26. Drawing Order of the Judge to estreat and put in process—(*Tariff, item 33*).

27. Entering and extracting upon a roll, in duplicate, the Fines, Issues, Amerciaments and forfeited Recognizances, recorded in each Session, making oath to the same, and transmitting it to the Sheriff—(*Tariff, item 35*).

28. Making out and delivering to the Sheriff the Writ of *feri facias* and *capias* thereon—(*Tariff, item 36*).

29. Making out and certifying copy of Roll and Return of Sheriff, and transmitting it to Provincial Treasurer—(*Tariff, item 37*).

30. Making up Books of Orders of Sessions, declaring the limits of the Division Courts, and entering the times and places of holding the Courts—(*Tariff, item 38*).

31. Making out and transmitting a copy thereof to the Government—(*Tariff, item 39*).

32. Making out and transmitting copies (with letter) to the Clerk of each Division Court, of the Divisions made by the General Sessions—(*Tariff, item 40*).

33. Drawing Orders of Session for altering the limits of Division Courts—(*Tariff, item 41*).

34. Making out and transmitting copies of such Orders to the Government—(*Tariff, item 42*).

35. Making out and transmitting copies of such Orders to each Division Court affected by the alteration—(*Tariff, item 43*).

36. For each Copy of Schedule of Division Courts, with the Order of Sessions for publication—(*Tariff, item 44*).

37. Swearing each party to an Affidavit, when no charge is elsewhere provided for it, (*if payable by the Crown*)—(*Tariff, item 63*).

*And for services in County Judge's Criminal Court.*

38. Attending and service in Court, and making all necessary entries for each prisoner brought before the Judge, and not consenting to be tried—(*Tariff, item 81*).

39. For attendance in Court, and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction for each prisoner—(*Tariff, item 82*).

40. Preparing Judge's warrant to bring up the body of prisoner, and delivering the same to Sheriff—(*Tariff, item 83*).

41. Issuing Writ of Summons to witness.—(*Tariff, item 84*).

42. Copy of Summons—(*Tariff, item 85*).

43. Warrant of remand, when issued and delivered to Sheriff—(*Tariff, item 86*).

44. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same—(*Tariff, item 87*).

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CONSTABLE.

1. Arrest of each individual upon a Warrant, (*if payable by the Crown*)—(*Tariff, item 1*).

2. Serving Summons or Subpœna, (*if payable by the Crown*)—(*Tariff, item 2*).

3. Mileage, (*if payable by the Crown*)—(*Tariff, item 3*).

4. Mileage in going to serve Summons or Warrant when the service has not been effected; the Board of Audit being satisfied that due diligence was used, (*if payable by the Crown*)—(*Tariff, item 4*).

5. Attending Assizes or Sessions—(*Tariff, item 8*).

6. Attending any Justice on summary trials or on the examination of Prisoners charged with any crime—(*Tariff, items 6 & 7*).

7. Taking Prisoners to Gaol, and disbursements necessarily expended in their conveyance—(*Tariff, item 5*).

8. Summoning Jury for Inquest and services at same—(*Tariff, item 10*).

9. Attending Inquest for each day other than the first—(*Tariff, items 11 & 12*).

10. Serving Summons or Subpœna to attend before Coroner—(*Tariff, item 13*).

11. Mileage serving same—(*Tariff, item 14*).



12. Serving notice of appointment of Constables, when personally served—(*Tariff, item 23*).

C. S. U. C. c. 120, *Sched.*

#### CRIER.

1. Making Proclamation for opening or adjourning the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, and General Sessions—(*Tariff, item 1*).

2. Making every other Proclamation—(*Tariff, item 2*).

3. Calling and Swearing Grand Jury—(*Tariff, item 3*).

4. Calling and Swearing every Petit Jury—(*Tariff, item 4*).

5. Calling and Swearing every Witness or Constable—(*Tariff, item 5*).

6. Attending Assizes and General Sessions—(*Tariff, item 6*).

C. S. U. C. c. 120, *Sched.*

#### OTHER MATTERS.

1. The maintenance of Prisoners confined upon criminal charges—

2. A proportion of the Salary of the Gaoler of each County Gaol, and of the payment of Turnkeys—

3. Medicines, Fuel and other similar necessities for the Gaol, and the Prisoners confined on criminal charges—

4. Disbursements in transporting Prisoners to the Penitentiary, or Reformatory and for carrying other sentences of the Courts into effect—

5. Fee to Gaol Surgeon for the examination of each prisoner eligible for removal or sentenced to Central Prison. (38 V. c. 24, s. 2.)

6. Together with all other charges relating to Criminal Justice payable to the foregoing Officers specially authorized by any Act of the Legislature, and immediately before the ninth of June, one thousand eight hundred and forty-six, payable out of County funds.

C. S. U. C. c. 120, *Sched.*

## CHAPTER 87.

## An Act to provide for the Payment of Witnesses for the Crown.

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Interpretation, s. 1.

Witnesses in cases above degree of misdemeanor, s. 2.

Cases in which Judge may order Crown witnesses to be paid, ss. 3-4.

Certificate of Crown Counsel to obtain order, s. 5.

Form of order, &c., ss. 6, 7.

Payment by municipalities, ss. 8, 9.

Reimbursement by Government in part, s. 10.

Witnesses from unorganized tracts, ss. 11, 12.

Witness fees where recovered from parties, s. 13.

Fee to County Attorney for certificate, ss. 14, 15.

Miscellaneous 16-18.

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**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Signification of the word "Court" in this Act.

**1.** In the sections of this Act numbered from three to seven inclusive,

"Court," shall include the Superior Courts of Common Law, Courts of Oyer and Terminer, General Gaol Delivery, General Sessions of the Peace, and County Judges' Criminal Courts. 39 V. c. 13, s. 1.

No fees to witnesses in case above misdemeanor except, &c.

**2.** Except as provided in this Act or other Act in that behalf, no witness in any cases above the degree of misdemeanor shall be allowed anything for his attendance or travel. C. S. U. C. c. 119, s. 15, *last part*.

In certain cases Crown witnesses may be compensated for attendance on prosecution or trial,

**3.** In case of a prosecution or trial for treason or felony, or any offence which is punishable by imprisonment only, or any offence for which whipping may be imposed, the Judge who holds the Court before which the prosecution or trial for the offence takes place, may grant, to any one who attends on recognizance or subpoena, or on the request of the Crown Counsel, to give evidence, or who gives evidence, on the part of the Crown, an order for payment of such sum of money as to the Judge seems reasonable and sufficient to compensate such witness for his costs and charges in attending as such witness; but such sum shall not exceed the amount then payable to the like witnesses in civil cases in the Superior Courts; and no allowance shall be made to any witness who resides in the County Town where the offence is tried, or within one mile thereof, except in the case of medical or indigent witnesses. 39 V. c. 13, s. 2; 40 V. c. 7, *Sched. A* (113).

4. Where no bill of indictment has been preferred, or where the trial has not been proceeded with, the Court may make a similar order in favour of any person who, in the opinion of the Court, *bona fide* attended the Court in obedience to a recognizance or subpoena. 39 V. c. 13, s. 3.

5. The order is not to be made except on a certificate by the Counsel, if any, for the Crown in the case, and by the County Crown Attorney (unless the County Crown Attorney is also the Counsel for the Crown, and certifies as such); and such certificate shall contain the particulars necessary in, and be to the effect of, the affidavit required in civil cases to entitle a party to disbursements to witnesses; but the Court may require further evidence, and shall have a discretion to grant or refuse the order. 39 V. c. 13, s. 4.

2. If the County Crown Attorney is absent, and for this or for some other reason some other person is acting for him, the certificate of the latter may be given instead of the certificate of the County Crown Attorney. 39 V. c. 13, s. 5.

6. The order may embrace any number of witnesses and any number of cases, or may be for one witness only. 39 V. c. 13, s. 5.

7. Every order for payment shall be forthwith made out and delivered by the proper officer of the Court, and shall be directed to the Treasurer of the County in which the offence was committed, or was supposed to have been committed; or if such offence was committed or was supposed to have been committed in a City, or in a Town separated for municipal purposes from the County, the order shall be directed to the Treasurer of the said City or Town. 39 V. c. 13, s. 6.

8. The Treasurer to whom the order is directed shall forthwith, out of the funds of the Municipality in his hands, pay to the witness, or each of the witnesses named, the amount ascertained by the certificate, on such witness signing a receipt therefor in person. 39 V. c. 13, s. 7.

9. In case the trial takes place in a County other than the County in which the offence was committed, the Treasurer of the County in which the trial takes place, if applied to by the witnesses, shall forthwith pay the money in the first instance out of the funds of the Municipality in his hands, and shall forthwith be reimbursed by the Treasurer to whom the order is directed. 39 V. c. 13, s. 8.

10. One-third of the amount paid to witnesses under this Act shall be repaid to the Municipality out of the Consolidated Revenue Fund of the Province, except as is hereinafter mentioned. 39 V. c. 13, s. 9.



Expenses of witnesses sent from unorganized districts, how repaid.

**11.** In respect of witnesses under the third and fourth sections of this Act, in cases sent from the unorganized Districts for trial in any County, the expenses of such witnesses shall be repaid in full out of the Consolidated Revenue Fund. 39 V. c. 13, s. 10.

Witnesses in unorganized districts.

**12.** The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending sittings of any of the Courts mentioned in the first section of this Act, held within any of the said unorganized Districts, upon the prosecution or trial of any treason, felony or other offence mentioned in the third and fourth sections of this Act, and shall be so paid under such regulations as the Lieutenant-Governor in Council may adopt. 39 V. c. 13, s. 11.

On recovery from prosecutor or defendant, the Municipality to be repaid.

**13.** In case any witness fees paid under the provisions of this Act are, by virtue of the judgment of the Court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the Municipality, and one-third accounted for by the Municipality to the Crown. 39 V. c. 13, s. 12.

Fee to Crown Attorney in respect of certificate.

**14.** For and to cover the costs, charges and expenses of, and incidental to, the certificate, or the inquiry whether a certificate should be granted, the County Crown Attorney shall be entitled to receive from the Corporation of the County in which the Court is held the sum of one dollar, in respect of every prosecution or trial on which a witness is examined, which sum shall be over and above his other costs and charges. 39 V. c. 13, s. 13.

One-third of Crown Attorney's fee to be repaid to Municipality.

**15.** One-third of the fee of one dollar, payable to the County Crown Attorney, as aforesaid, shall be repaid to the Municipality out of the Consolidated Revenue Fund of the Province. 39 V. c. 13, s. 14.

Witness fees payable on prosecution of claims, &c., by Her Majesty.

**16.** In case of any information, action, suit or other legal proceeding before any Court in Ontario, by or on behalf of the Crown, for the prosecution of rights, claims or demands of Her Majesty against any person or body corporate, for the use of the Province, or for the recovery of the possession of any lands, deeds or personal property whereto Her Majesty claims to be entitled, for the use of the Province, the witnesses shall be entitled to be paid the like witness fees as are payable in such Court in civil suits, between subject and subject. 39 V. c. 13, s. 15.

Compensation not to be paid before determination of the case.

**17.** Nothing herein contained shall be construed to entitle a witness in any case to which this Act applies to require payment of any sum of money previous to the determination at such Court of the prosecution or trial at which he attends as a witness. 39 V. c. 13, s. 16.

Rights of Counties continued under

**18.** This Act shall not prejudice the rights which any County in which Indian reservations are located may have as

against the Dominion of Canada, under section seventy-one of the Act passed by the Parliament of Canada in the Session held in the thirty-ninth year of the reign of Her Majesty Queen Victoria, and chaptered eighteen. 39 V. c. 13, s. 17.

39 Vict., c. 13, s. 71, (D) as to costs on conviction, etc., of Indians.

## CHAPTER 89.

### An Act respecting the Appropriation of Fines and Forfeitures in certain cases.

Fines imposed by Imperial Acts and appropriated for the benefit of the poor, or for parochial purposes, s. 1.

Fines where no special appropriation is made, s. 2.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

**1.** In all cases not otherwise provided for, in which, by any Imperial Statute in force in Ontario, a fine or penalty is imposed, in respect to matters within the legislative authority of the Legislature of Ontario, and the whole or any part of the fine or penalty is in any manner appropriated for the support of the poor, or to any parochial or other purpose, inapplicable to the existing state of Ontario, such fine or penalty, or the part thereof so appropriated, shall when received be paid to the Treasurer of the County or City in which the conviction has taken place, to be appropriated to the purposes thereof, and accounted for in the same manner as the general rates and assessments levied therein are applicable and accountable by law. *See C. S. U. C. c. 118, s. 1.*

The portion of all fines distributed by the law of England to the poor shall be paid to the Treasurers of the Counties or Cities for the purposes of such Counties or Cities.

**2.** Every fine and penalty imposed for the punishment of any offence prohibited by any statute now or hereafter in force in this Province, and the proceeds of every forfeiture imposed and given to the Crown by any statute now or hereafter in force in this Province, shall, where the disposal of the same is within the power of the Province and no other provision is made in respect thereto, be paid to the Treasurer of the Province, and shall form part of the Consolidated Revenue Fund. *See C. S. U. C. c. 118, s. 2; see also Rev. Stat. c. 1, s. 8 (31).*

Where no appropriation specified fines &c., shall be paid to the Provincial Treasurer.

[By C. S. U. C. c. 118, ss. 1 & 2, provision is also made for the appropriation of fines, &c., the disposal of which is not within the authority of the Province].

## PART III.

### ACTS PASSED AT THE SESSION OF THE LEGISLATURE OF ONTARIO, 41 VICTORIA, 1878, AFFECTING MUNICIPAL MATTERS.

#### CHAPTER 8.

An Act to make certain Amendments in the Revised Statutes.

[Assented to 7th March, 1878.]

Revised Stat.  
c. 174, s. 142,  
amended.

**19.** The Revised Statute respecting Municipal Elections chapter one hundred and seventy-four, section one hundred and forty-two, is hereby amended by striking out the word "making," in the second line of the said section, and substituting the word "marking."

#### CHAPTER 9.

An Act respecting investments in Tile Drainage Debentures.

[Assented to 7th March, 1878.]

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

**1.** This Act shall be cited as "The Ontario Tile Drainage Act."

Councils may borrow.

**2.** The Council of any Township Municipality may pass by-laws for borrowing for the purposes hereinafter mentioned, a sum of not less than two thousand dollars, nor exceeding ten thousand dollars, and for issuing therefor the debentures of the Municipality in sums of one hundred dollars each, payable within twenty years from the first day of August in the year in which the money is borrowed from the Municipality as is hereinafter provided, and bearing interest at the rate of five per centum per annum, and it shall not be necessary to submit such by-law to a vote of the electors of the Municipality before the passing thereof: But no such by-law shall be valid unless the same is passed at a meeting of the Council specially

Passing of by-law.



called for the purpose of considering the same, and not less than four weeks after a notice of the day appointed for such meeting has been published in some newspaper issued weekly, or oftener, within the township, or, if there is no such public newspaper, then in a public newspaper published nearest to the township, or in the county town; which said notice shall be to the effect of Schedule F to this Act.

3. The debentures issued under any such by-law may be issued and sold by the Municipality from time to time, as the Municipal Council thereof may require money for the purpose only of lending the same for tile drainage, as hereinafter provided. Issuing and sales of debentures under by-law

4. Said debentures shall be made payable to the Treasurer of Ontario, or order (in the Form of Schedule E), and shall have coupons attached, and each of such coupons shall be for the sum of eight dollars, being as nearly as may be the sum required to meet the annual interest of the debenture and the annual sinking fund necessary for the repayment of the debentures at the expiration of twenty years. Coupons.

5. Such by-law may be in the form of Schedule "A." to this Act, and shall be promulgated as provided by the Municipal Institutions Act, Revised Statute chapter one hundred and seventy-four, sections three hundred and nineteen and three hundred and twenty. Form of by law.

6. The Council of any Township Municipality, proposing to borrow money under the provisions of this Act may, after the expiration of the time limited for serving notice of intention to make application to quash the by-law, as provided by the Municipal Institutions Act, Revised Statutes, chapter one hundred and seventy-four, section three hundred and twenty-one, deposit with the Commissioner of Agriculture a copy of the by-law, with affidavits of the Reeve, and Clerk of the Municipality in the form Schedules B. and C. to this Act, and may at any time thereafter apply for the sale of the debentures authorized thereby for such sums as hereinafter provided: such application to be in writing and sealed with the seal of the Municipality and signed by the Reeve thereof, and shall specify the names of the parties to whom the money is to be loaned. Application for sale of debentures.

7. The Commissioner of Agriculture shall investigate and report to the Lieutenant-Governor in Council as to the propriety of the investments proposed in such applications in the order of time in which they are deposited; and such reports shall be disposed of by the Lieutenant-Governor in Council, in the order of time in which the same are made. Commissioner of Agriculture to report to Lieutenant-Governor in Council.

8. Any person assessed as owner of land in the Municipality, wishing to borrow money for the purpose of tile draining the said land, may make application to the Council of the Municipality in the form of Schedule "D" to this Act. Application to borrow.

Issuing debentures on a loan.

**9.** On such application the Council may issue debentures for such amount within the sum authorized by this Act and by by-law of the Municipality, as they may deem expedient and proper, but not exceeding the sum or sums applied for, and not exceeding twenty-five per centum of the estimated cost of such tile drainage.

Purchase of debentures out of Con. Rev. Fund.

**10.** The Lieutenant-Governor in Council may from time to time, in his discretion, invest any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any one time the sum of two hundred thousand dollars, in the purchase of any debentures issued under by-laws deposited as aforesaid, in respect of which the Commissioner of Agriculture shall have certified to the propriety of investment.

Debentures made unquestionable.

**11.** After any such investment has been made, the debentures shall not be questioned and shall be deemed to be valid to all intents and purposes.

How and to whom loans to be made.

**12.** The Council shall lend the money so borrowed for the purpose of tile drainage only for the same term of twenty years, in sums of one or more hundreds of dollars (no fractional part of a hundred dollars to be loaned), and to persons who are assessed as owners as aforesaid; but no part of the money so borrowed shall be loaned to any member of the Council, but any person having so borrowed any sum or sums from any Municipality shall not thereby and by reason thereof be disqualified from being afterwards elected a member of the Council of such Municipality.

Non-disqualification as member of Council.

Limit of amount to be loaned.

**13.** The Council shall not loan to any person borrowing money under this Act a sum which shall require the levying of a greater annual rate for all purposes, exclusive of school rates, than three cents in the dollar upon the value of the lot or parcel of land proposed to be tile-drained, in respect of which the money is borrowed, as ascertained by the last revised Assessment Roll of the Municipality, but in no case shall more than the sum of one thousand dollars be loaned to one person.

Order in which loans are to be granted.

**14.** The Council shall consider the applications in the order they are made, and shall loan the money to the persons whose applications shall have been approved of in the same order.

Inspector, his expense.

**15.** The Council borrowing money under this Act shall employ a competent person as Inspector of tile drainage, whose services and expenses shall be charged ratably upon the works carried on under his inspection, and shall be paid by the Council out of the money borrowed.

Inspector's report, contents.

**16.** The Inspector shall, on the completion of any drainage works under his charge, report to the Council the number of

rods of drain constructed on each lot or parcel of land, the cost per rod, and such other particulars as may be required by the Council; report shall be entered in a book to be provided by the Council for that purpose, and the money shall not be advanced by the Council until such report of the due completion of the work has been so made.

No advance to borrower till report entered.

**17.** The Council shall impose, by by-law (in the Form of Schedule G), levy and collect for the term of twenty years a special annual rate of eight dollars on each one hundred dollars loaned over and above all other rates upon the land in respect of which the money is loaned; and such rate shall be collected in the same manner as other special rates imposed under the provisions of the Municipal Act.

Special annual rates.

**18.** The owner of any lot or parcel of land in respect of which money had been borrowed for tile drainage under this Act, may at any time obtain the discharge of his indebtedness under this Act, by paying the Treasurer of the Municipality the amount borrowed, less the annual sinking fund levied and collected, with interest thereon at the rate of five per centum per annum; and upon such payment being made to the said Treasurer, he shall forthwith transmit the same to the Treasurer of Ontario, who shall apply the same on account of the payment of the debentures of the Municipality under this Act.

Owner may discharge his indebtedness.

**19.** Every Municipal Council borrowing money under this Act, shall on or before the fifteenth day of January in each year, make a return to the Lieutenant-Governor in Council, for the purpose of being laid before the Legislative Assembly, shewing the amount of money expended in tile drainage, the number of rods of tile drainage constructed, the names of the persons borrowing and the property upon which the money has been loaned, the names of the persons whose application has been refused, the reason in each case of such refusal, and during the year next preceding the date of such return.

Returns to Lieutenant-Governor in Council by Municipal Council.

**20.** The amount payable in any year under any such by-law or debentures, for principal and interest, shall be remitted by the Treasurer of the Township to the Treasurer of Ontario within one month after the same shall have become payable, together with interest at the rate of seven per centum per annum during the time of default in payment.

Township Treasurer to remit to Treasurer of Ontario.

**2.** In case of the continuance of such default, the Council of the Municipality shall, in the next ensuing year, (or as the case may require) assess and levy on the whole ratable property within the Municipality in the same manner in which taxes are levied for the general purposes of the Municipality, a sufficient sum to enable the Treasurer, over and above the other valid debts of the corporation falling due within the year, to pay over to the Treasurer of Ontario the amount in arrear together with

On default, council to collect as a tax.



the interest thereon at the rate of seven per centum per annum, during the time of default in payment whether the same have been previously recovered from the parties or lands chargeable with the same or not.

Arrears made a first charge on township funds; and no officer to pay out township funds except salaries, &c.

3. The amount so in arrear and interest at the said rate of seven per cent. shall, except as hereinafter provided, be the first charge upon all the funds of the Municipality, for whatever purpose or under whatever by-law they may have been raised other than sinking fund; and no Treasurer or other officer of the Municipality shall, after default, pay any sum whatsoever, except for the ordinary current disbursements and salaries of clerks and other employees of such Municipality, or debts due to the Government of Ontario having priority by virtue of any statute, out of any fund of the Municipality in his hands, until the sum in arrear and interest shall have been paid to the Treasurer of Ontario.

Penalty on officers paying out funds when township in default.

4. If any such Treasurer or municipal officer shall pay any sum out of the funds of his Municipality, except as aforesaid, contrary to the provisions hereinbefore named, he shall be liable to the Treasurer of Ontario for every sum so paid as for money received by him for the Crown, and he shall in addition thereto incur a penalty of five hundred dollars to be recovered with full costs of suit by any person who will sue for the same by action of debt or information in any of Her Majesty's Courts in this Province having jurisdiction, and in default of payment of the amount which the offender is condemned to pay within the period to be fixed by such court, such offender shall be imprisoned in the common gaol of the county for the period of twelve months unless he sooner pay the amount which he has been condemned to pay and the costs.

Penalty on Reeve or Councillor disregarding this Act.

5. Any Reeve or Councillor wilfully omitting to see the foregoing provisions carried into effect, shall also be personally and individually liable to the Treasurer of Ontario for the full amount so in arrears and interest, to be recovered with costs by the said Treasurer of Ontario, in any suit as for money had and received for Her Majesty's behalf: Provided always that no assessment, levy or payment made under this section shall in any wise exonerate the persons or lands chargeable from liability to the Municipality.

Affidavits, before whom sworn.

21. Affidavits under this Act may be sworn before a Justice of the Peace, or before a Commissioner for taking affidavits in the Courts of this Province.

## SCHEDULE "A."

(Section 5.)

## FORM OF BY-LAW.

*A By-law to raise the sum of \_\_\_\_\_ dollars to aid in the construction of tile drains.*

The Municipality of the Township of \_\_\_\_\_, pursuant to the provisions of an Act of the Legislature of Ontario, passed in the forty-first year of Her Majesty's reign, chaptered \_\_\_\_\_, enacts as follows :

1. That the Reeve of the said Township may from time to time, subject to the provisions of this by-law, borrow on the credit of the corporation of the said Municipality such sums of money not exceeding in the whole \_\_\_\_\_ dollars, as may be decided by the said Council, and may in manner hereinafter provided, issue debentures of the said corporation in sums of one hundred dollars each for the amount so borrowed; the said debentures to have coupons attached as provided in the fourth section of the said Act.

2. That when the Council shall be of opinion that the application of any person or persons who may be assessed as owners of land in the said municipality, to borrow money for the purpose of constructing tile drains should be granted in whole or in part, then the said Council may, by resolution, instruct the said Reeve to issue debentures as aforesaid, and borrow such sum of money as does not exceed the amount applied for, and may loan the same to the said applicant on the completion of said drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the said money shall be borrowed, sufficient for the payment of the interest and sinking fund, as provided in the said Act.

## SCHEDULE "B."

(Section 6.)

*Affidavit of Reeve or other Head Officer.*

County of \_\_\_\_\_ } I, \_\_\_\_\_ of the  
 TO WIT: } \_\_\_\_\_ of  
 in the County of \_\_\_\_\_ and Province of Ontario,  
 (Reeve) of the Township of \_\_\_\_\_ make oath and  
 say:—

1st. I have not been served with any notice of intention to make application to quash a certain by-law passed on the

day of \_\_\_\_\_ in the year of our  
 Lord \_\_\_\_\_ by the Municipal Council of the said Town-  
 ship of \_\_\_\_\_ No. \_\_\_\_\_ intituled (*give title of  
 by-law,*) nor have I been served with any notice of intention to  
 make application to quash any part of said by-law, nor with  
 any notice to that or the like effect.  
 Sworn, &c.

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## SCHEDULE "C.

(Section 6.)

### *Affidavit of Clerk of Municipality.*

County of \_\_\_\_\_ } I, \_\_\_\_\_ of  
 TO WIT : } \_\_\_\_\_ of  
 in the County of \_\_\_\_\_ and Province of Ontario,  
 Clerk of the said Township of \_\_\_\_\_ make  
 oath and say :—

1. On the \_\_\_\_\_ day of \_\_\_\_\_  
 in the year of our Lord \_\_\_\_\_ the  
 municipal council of the said Township of \_\_\_\_\_  
 passed a by-law in regard to the borrowing of money to be lent  
 for the construction of tile drains, being No. \_\_\_\_\_

and intituled (*state title of by-law*), a true copy of which by-law  
 duly certified by me is now shown to me and is marked "A."

2. A notice setting forth the object of the said by-law, and  
 stating that any one intending to apply to have such by-law  
 or any part thereof quashed, must within twenty days after  
 the first publication thereof serve a notice in writing upon  
 the reeve or other head officer of the municipality, and  
 upon the clerk of the municipality, of his intention to make  
 application for that purpose to one of Her Majesty's superior  
 courts of law at Toronto, during the term next ensuing the  
 final passing of the by-law, was published on (*insert here the  
 dates of publication*), in the (*insert name of newspaper*), news-  
 paper published at \_\_\_\_\_ in the Township of [*or the town or  
 Township of* \_\_\_\_\_ (*as the case may be,*) being the public news-  
 paper published nearest the said Township of \_\_\_\_\_ *or in*  
*the county town in which a newspaper is published*, there be-  
 ing no newspaper published in the said Township of \_\_\_\_\_ ],  
 a copy of which newspaper containing the said notice is now  
 shown to me, marked "B."

3. I have not been served with any notice of intention to make  
 application to quash the said by-law, nor with any notice of  
 intention to make application to quash any part thereof and  
 with any notice to that or the like effect.

Sworn, &c.

---



SCHEDULE "D."

(Section 8.)

To the Municipal Council of  
I, A. B, owner of (*if part state what part*), lot No.     in  
Concession of the Township of     hereby apply for a  
loan of \$     to assist in the construction of     rods of  
tile drains     proposed depth of drain     inches proposed  
size of tile     inch.  

(Signed)     A. B.

SCHEDULE "E."

(Section 4.)

\$100.

Tile Drainage Debenture of the Township of  
The Corporation of the Township of     , in the County  
of     hereby promises to pay to the Treasurer of the  
Province of Ontario or order at the Bank of     in the  
city of Toronto, the sum of one hundred dollars of lawful  
money of Canada, and interest thereon at five per cent. in  
twenty equal annual instalments of eight dollars each, the first  
of such instalments to be paid on the     day of  
A.D., 187     , pursual to By-law No.     , intituled "A By-law to  
raise the sum of     dollars, to aid in the construction  
of Tile drains.

A. B., <i>Reeve.</i>	<div>Seal of Corporation.</div>	C. D., <i>Treasurer.</i>
<hr/>		
COUPON for twentieth Annual Instalment of Tile Drainage Deben- ture No. 1, issued under By-law No.     of the Township of     . \$8 payable at the Bank of in the city of Toronto on day of     A.D. 187     .	COUPON for nineteenth Annual Instalment of Tile Drainage Deben- ture No. 1, issued under By-law No.     of the Township of     . \$8 payable at the Bank of in the city of Toronto on day of     A.D. 187     .	
A. B., <i>Reeve.</i>	C. D., <i>Treasurer.</i>	A. B., <i>Reeve.</i>
		C. D., <i>Treasurer.</i>

## SCHEDULE "F."

(Section 2.)

*Notice of By-law.*

Take notice that a by-law for raising the sum of \$  
for Tile Drainage under the provisions of "The Ontario Tile  
Drainage Act," will be taken into consideration by the Municipal Council of the township of \_\_\_\_\_, on the  
day of \_\_\_\_\_, A.D. 18\_\_\_\_, at the hour of \_\_\_\_\_ o'clock in  
the \_\_\_\_\_ noon, at which time and place the members of the  
council are hereby required to attend for the purpose aforesaid.

E. F.,  
Clerk.

## SCHEDULE "G."

(Section 17.)

## BY-LAW IMPOSING A RATE.

*By-law imposing a Special Tile Drainage rate upon Lot  
in the \_\_\_\_\_ Concession.*

Whereas H. J., the owner of Lot \_\_\_\_\_ in the  
Concession of this Township, applied under the provisions  
of the "Act respecting the investment of public money in  
debentures issued for the construction of tile drains in Town-  
ship Municipalities," for a loan to be made to him for the pur-  
pose of tile draining the said land: And whereas the Municipal  
Council has, upon his said application, loaned the said H. J.,  
the sum of one thousand dollars (*or as the case may be*), to be  
repaid with interest by means of the rate hereinafter imposed:

Be it therefore enacted, by the said Municipal Council of the  
said Township, that an annual rate of eighty dollars per annum  
(*or as the case may require, namely, \$8 per every \$100 loaned*),  
is hereby imposed upon the said land for a period of twenty  
years, such rate to be levied and collected at the same time and  
manner as ordinary taxes are levied and collected.

## CHAPTER 10.

## An Act to amend the Line Fences Act.

[Assented to 7th March, 1878.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In the Line Fences Act, being chapter one hundred and ninety eight of the Revised Statutes of Ontario, the expression "occupied lands," shall not include so much of a lot, parcel or farm as is unenclosed, although a part of such lot, parcel or farm is enclosed and in actual use and occupation.

Interpretation  
of the words  
"occupied  
lands."

## CHAPTER 11.

## An Act respecting Bridges in Villages.

[Assented to 7th March, 1878.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The councils of every county and incorporated village may pass by-laws for carrying out any arrangement between them for the assumption by the village municipality of any bridge within its limits under the jurisdiction of the county council, and for such bridge being toll free; and for the payment by the village municipality to the county municipality of any part of the cost of the construction of such bridge; and after the passing of such by-laws the bridge shall be and remain under the exclusive jurisdiction of the village municipality; and the village municipality shall be subject to all the liabilities in the premises, which but for the transfer would have devolved on the county municipality; and the bridge shall be and remain toll free.

Assumption  
by villages of  
bridges under  
control of  
county.



## CHAPTER 12.

## An Act to amend the Revised Statute respecting Ditching Water Courses.

[Assented to 7th March, 1878.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

R. S. c. 199, s. 4 amended.      **1.** The following shall be added to and shall form subsection five to section four of the Revised Statute respecting ditching water courses.

Selection of  
fence viewers  
where land ad-  
joins different  
municipalities

**5.** Where the lands are situate in different municipalities, the said fence viewers shall be selected as follows: two from the fence viewers of the municipality in which the land of the other owner or occupant so notified is situate, and the third from the fence viewers of the municipality in which the land of the party giving the notice is situate. In case of a disagreement as provided in subsection four of this section, the county judge may appoint the fence viewers indifferently from either or both municipalities.

Interpretation  
of the words  
judge and  
clerk.

**2.** The judge referred to in subsection four of section four, and in section twelve of the Revised Statute; the clerk of the municipality referred to in section eight; and the clerk of the division court referred to in subsection two of section twelve, shall be respectively the judge of the county court of the county, the clerk of the division court of the division, and the clerk of the municipality wherein the land of the owner to be notified lies.

R. S. c. 199, s. 3 amended.

**3.** Section three of the said Act is hereby amended by adding after the word "adjoining" in the first line, the words "or adjacent."

## CHAPTER 13.

## An Act to amend the Assessment Act.

[Assented to 7th March, 1878.]

WHEREAS doubts exist as to the right of appeal from the equalization of assessments under the provisions of the Assessment Act, where County Valuers have been appointed, and it is expedient to remove such doubts;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The right of appeal provided for by section sixty-eight of the Revised Statutes, respecting "The Assessment Act," shall exist whether County Valuers have been appointed or not, and upon any such appeal the report of the County Valuers shall be open to review by the County Judge.

Appeal in cases of equalization of assessment.

## CHAPTER 14.

An Act to amend the License Act, and for other purposes.

[Assented to 7th March, 1878.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. A sum not exceeding seven thousand dollars may be set apart out of the Consolidated Revenue of the Province for the re-payment to any brewer or distiller who has paid the duty on a wholesale license or licenses, the amount of such duty and the amount to which any municipality was entitled upon the issue of such license or licenses, under and by virtue of the Act passed in the thirty-seventh year of Her Majesty's reign, chaptered thirty-two and interest thereon, and the amount of any fine or fines or penalties imposed and paid, by reason of the neglect of any brewer or distiller to obtain the wholesale license required by section twenty-six of said Act and interest thereon, and on the several sums to be repaid under section three of this Act ; and the Treasurer of the Province may, upon such payment by any brewer or distiller being made to appear to his satisfaction, repay the sum or sums so paid as aforesaid to the person or persons who paid the same, or to his or their executors, administrators or assigns.

Repayment to brewers, &c., of duties, penalties, &c.

2. Upon the distribution of the license fund thereafter, there shall be paid to the Province, out of the proportion of such license fund payable to any municipality, the amount which such municipality has been paid by any brewer or distiller upon the issue of a wholesale license under said Act, and the amount of any fine or fines received by any municipality and the interest, which may be repaid to such brewers or distillers.

Province to be repaid what has been paid to municipalities.

3. Where any brewer or distiller, under and by virtue of the Act passed in the thirty-ninth year of Her Majesty's reign,

Licenseboard may repay

brewers, &c.,  
in certain  
cases.

chaptered twenty-six, has paid into the license fund of any license district, or to the License Inspector the duty on any wholesale license or licenses, or has paid any fine or fines by reason of the neglect of such brewer or distiller to obtain such wholesale license, and such duty and fines shall not have been paid into the Consolidated Fund, such License Board may repay the same to the person or persons who paid the same, or to his or their executors, administrators or assigns, such payment being first approved by the Treasurer of the Province.

This Act not  
to be acquies-  
cence in Queen  
*versus* Severn.

4. Nothing herein contained shall be construed as an acquiescence by the Legislature, in the judgment heretofore given by the Supreme Court against the authority of this Legislature, to require brewers and distillers to take out a wholesale license in the terms and for the purposes mentioned in the said Act passed in the thirty-seventh year of Her Majesty's reign, chaptered thirty-two, and to pay the duty thereon.

R. S. c. 181, s.  
109, repealed.

5. Section one hundred and nine of chapter one hundred and eighty-one of the Revised Statutes of Ontario is hereby repealed.

Expenses of  
provisions of  
R.S. caps. 181,  
182, and of this  
Act, how to  
be borne.

6. All expenses of carrying such of the provisions of chapters one hundred and eighty-one and one hundred and eighty-two of the Revised Statutes of Ontario as may be in force in municipalities where a by-law prohibiting the sale of intoxicating liquors under the "Temperance Act of 1864," or the "Temperance Act of Ontario" is in force, and this Act into effect, shall, when the license fund is insufficient for that purpose, be borne and paid in the proportion of one-third by the Province out of the Consolidated Revenue Fund, and two-thirds by the county within which any by-law for prohibiting the sale of liquor under the Temperance Act of 1864, or under chapter one hundred and eighty-two of the Revised Statutes of Ontario is in force; and where the by-law is that of a minor municipality, such minor municipality's share of the entire expenses shall be paid in the same proportion by the Province and the minor municipality respectively, as when the by-law is that of a county.

Proportion  
payable by  
the Province or  
Municipality,  
how and when  
to be paid.

(2) The proportion of such expenses payable under this section by a county, or by a minor municipality, or by the Province, shall be by them paid into the bank in which the license fund is kept to the credit of the license fund for the city or county or electoral district, as the case may be, and shall become due and payable within one month after an estimate of the amount of the expenses for the current license year shall be made by the Board of License Commissioners for the city, county, or electoral district, as the case may be, and shall be approved by the Provincial Treasurer, which approval shall be final and conclusive; and after a copy or duplicate of such estimate and approval together with a notice in writing by the Board of License Commissioners, requesting payment of the proportion payable by the municipality shall be served



upon the clerk of the county, or minor municipality; and should any estimate prove insufficient for the payment of the expenses of the license year any deficiency may be provided for in the estimate for the succeeding year; and should any sums remain unexpended in any year, the same may be applied on account of the expenses of the succeeding year.

(3) Payment may be enforced against any county, or minor municipality by the Board of License Commissioners in any Court of law or equity of competent jurisdiction in the name and by the title of "The Board of License Commissioners for the city, county, or electoral district of \_\_\_\_\_," (as the case may be); and it shall not be necessary to mention or include the names of the commissioners in the proceedings; and the said action or proceedings may be carried on in the name of such license board as fully and effectually as though such license board were incorporated under the aforesaid name or title. In the event of the death or resignation of any of the commissioners, or of the expiry of their commission and of the re-appointment of the same, or of the appointment of other commissioners, the proceedings, action, or suit at law or in equity, shall not cease, abate or determine, but shall proceed as though no change had been made in the commission or commissioners, and in the event of said license board being condemned in costs, the same may be payable out of the License Fund.

(4) This section shall apply to all expenses heretofore incurred under the Acts passed in the thirty-ninth year of the reign of Her Majesty, chapter twenty-six and in the fortieth year of the reign of Her Majesty, chapter eighteen, or under the said Revised Statute, chapter one hundred and eighty-one, and the same may be recovered by the license board hereunder from the municipality liable by virtue of this Act to pay the same; and any notice requesting payment of its proportion heretofore given to any municipality by any Board of License Commissioners, or by the members thereof shall be as effective as though given under this Act.

This section to apply to all expenses under 39 Vict. c. 26, and 40 Vict. c. 18, and R. S. c. 181.

7. When the by-law is a county by-law, and the license district in addition to other portions of the county, embraces a city or town withdrawn from the county for municipal purposes wherein the by-law is not in force, the license fund of such city or town withdrawn from the county for municipal purposes shall be kept as a separate license fund for such city or town; and such city or town shall pay a just share of the expenses of such license district; and the same shall be determined by the Board of License Commissioners; and shall after approval by the Treasurer of the Province be paid out of the license fund for such city or town; and in determining such share of expenses the commissioners shall take into account with other circumstances, as far as may be, the proportion of the expenses incurred in said city or town.

The case of a county by-law and the license district embracing a city or town separate where by-law not in force.

Costs on appeal from conviction under R. S. c. 181, or R. S. c. 182.

8. On an appeal to the county Judge or general sessions from a conviction or order under the "Liquor License Act," or under chapter one hundred and eighty-two of the Revised Statutes of Ontario, when costs are directed to be paid by either party, no greater costs shall be taxable by or against either party as between party and party than the sum of ten dollars, and the actual and necessary disbursements in procuring the attendance of witnesses and the fees to which the clerk of the peace shall be lawfully entitled.

R. S. c. 181, s. 76, amended as to power of justice to amend informations.

9. The seventy-sixth section of the said "Liquor License Act" is hereby repealed and the following section substituted therefor :

76. At any time before judgment, the justice, justices, or police magistrate may amend or alter any information, and may substitute for the offence charged therein, any other offence against the provisions of this Act; but if it appears that the defendant has been prejudiced by such amendment, the said justice, justices, or police magistrate shall thereupon adjourn the hearing of the case to some future day, unless the defendant waives such adjournment.

R. S. c. 181, s. 77 amended.

10. The seventy-seventh section of said Act is hereby amended by inserting the words "or is otherwise made to appear" after the word "process," in the eleventh line of said section and by striking out the word "thereby" in the twelfth line of said sub-section.

"Minor municipality," in interpretation of.

11. The word "minor municipality," when mentioned herein shall be held to mean any municipality, other than that of a county or union of counties.

## CHAPTER 18.

An Act to amend the law for the protection of Game and Fur-bearing Animals.

[Assented to 7th March, 1878.]

WHEREAS it is expedient to amend the law respecting the preservation of game and fur-bearing animals in Ontario;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Chapter two hundred of the Revised Statutes of Ontario, is hereby repealed. R. S. c. 200  
repealed

2. None of the animals or birds hereinafter mentioned shall be hunted, taken or killed within the periods hereinafter limited: Deer, Elk, Moose, Reindeer, or Cariboo, between the fifteenth day of December and the fifteenth day of September in the following year; (2) Wild Turkeys, Grouse, Pheasants, Prairie Fowl or Partridge, between the first day of February, and the first day of October; (3) Quail, between the first day of January and the first day of October; (4) Woodcock, between the first day of January and the first day of August; (5) Snipe, between the first day of May and the fifteenth day of August; (6) Waterfowl, which are known as Mallard, Grey Duck, Black Duck, Wood or Summer Duck, and all kinds of Duck known as Teal, between the first day of January and the first day of September; (7) Other Ducks, Wild Swans or Geese, between the first day of May and the first day of September; (8) Hares or Rabbits, between the first day of March and the first day of September. Periods within  
which certain  
animals and  
birds may be  
killed.

3. The said animals or birds may be exposed for sale for one month, and no longer, after the beginning of the periods above respectively limited for their protection, and may be had in possession for the private use of the owner and his family at any time, but in all cases the proof of the time of killing or taking shall be upon the person so in possession; (1) Except as aforesaid, no person shall have in his possession any of the said animals or birds, or any part or portion of any of such animals or birds, during the periods in which they are so protected. Possession  
during such  
periods how  
far lawful.

4. No eggs of any of the birds above mentioned shall be taken, destroyed or had in possession by any person at any time. Protection of  
eggs.

5. None of the said animals or birds, except the animals mentioned in the seventh section of this Act, shall be trapped, or taken by means of traps, nets, snares, gins, baited lines, or other similar contrivances, nor shall such traps, nets, snares, gins, baited lines or contrivances be set for them, or any of them at any time; and such traps, nets, snares, gins, baited lines, or contrivances may be destroyed by any person without such person thereby incurring any liability therefor. Trapping for-  
bidden except  
as to certain  
animals. .  
  
Power to de-  
stroy traps,  
&c.

6. None of the contrivances which are described as batteries, sunken punts, sunken boats or night lights shall be used at any time for taking or killing the wild fowl known as Swans, Geese or Ducks, nor shall any wild Ducks be killed during the night time, that is to say from dark until daylight. Batteries, &c.,  
for wild fowl  
forbidden.

7. No Beaver, Muskrat, Mink, Sable, Martin, Raccoon, Otter, Fur-bearing



animals, close season.

or Fisher shall be hunted, taken or killed, or had in the possession of any person between the first day of May and the first day of November; nor shall any traps, snares, gins or other contrivances be set for them during such period, nor shall any Muskrat house be destroyed at any time, and any such traps, snares, gins, or other contrivances so set may be destroyed by any person without such person thereby incurring any liability therefor; provided that this section shall not apply to any person destroying any of the said animals in defence or preservation of his property.

Destruction of traps, &c.

Penalties.

**8.** Offences against this Act shall be punished upon summary conviction on information or complaint before a Justice of the Peace as follows with costs:

1. In the case of Deer, Elk, Moose, Reindeer or Cariboo, by a fine not exceeding fifty dollars, nor less than ten dollars for each animal.

2. In the case of birds or eggs, by a fine not exceeding twenty-five dollars nor less than five dollars for each bird or egg.

3. In the case of fur-bearing animals mentioned in the seventh section of this Act by a fine not exceeding twenty-five dollars, nor less than five dollars for each animal.

4. In the case of other breaches of this Act, by a fine not exceeding twenty-five dollars, nor less than five dollars.

Disposition of penalties.

**9.** The whole of such fine shall be paid to the prosecutor unless the convicting justice has reason to believe that the prosecution is in collusion with and for the purpose of benefiting the accused in which case the said justice may order the disposal of the fine as in ordinary cases.

Confiscation of game illegally killed.

**10.** In all cases confiscation of game shall follow conviction, and the game so confiscated shall be given to some charitable institution or purpose at the discretion of the convicting justice.

Game imported for breeding not to be killed.

**11.** In order to encourage persons who have heretofore imported or hereafter import different kinds of game with the desire to breed and preserve the same on their own lands, it is enacted that it shall not be lawful to hunt, shoot, kill, or destroy any such game without the consent of the owner of the property wherever the same may have been bred.

Poisoning animals.

**12.** It shall not be lawful for any person to kill or take any animals or birds mentioned in this Act by the use of poison or poisonous substances, nor to expose poison, poisoned bait or other poisoned substances in any place or locality where dogs or cattle may have access to the same.

**13.** No person shall at any time hunt, take, or kill any Deer, Elk, Moose, Reindeer or Cariboo, for the purpose of exporting the same out of Ontario; and in all cases the onus of proving that any said Deer, Elk, Moose, Reindeer or Cariboo so hunted, taken or killed is not intended to be exported as aforesaid, shall be upon the person hunting, killing or taking the same: Hunting Deer, &c., for exportation forbidden.

(1). Offences against this section shall be punished by a fine not exceeding twenty-five dollars nor less than five dollars for each animal. Penalty.

**14.** No owner of any dog trained or accustomed to hunt deer shall permit any such dog to run at large (if such dog is accustomed or is likely to resort to the woods unaccompanied by such owner or any of his family or other person) during the period hereinbefore prohibited for hunting, taking or killing deer; and any such owner permitting any such dog to run at large during the said period shall, on conviction thereof, be liable to the penalty mentioned in sub-section four of section eight of this Act; and any person harbouring any such dog or claiming to be the owner thereof shall be deemed to be the owner thereof for the purposes of this Act. Owners of dog used to hunt Deer, to restrain them during close season.

## CHAPTER 22.

An Act to amend the Revised Statutes for the Protection of Insectivorous and other Birds beneficial to Agriculture.

[Assented to 7th March, 1878]

**W**HEREAS it is expedient to amend the law providing for the protection of insectivorous and other birds referred to in the Act for the protection in Ontario of insectivorous and other birds beneficial to agriculture; Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

**1.** From and after the passing of this Act, chapter two hundred and one of the Revised Statutes of Ontario, is amended as follows:—After the word “ravens” in the fourth line of the second section of the said Act the words “plover, and black birds” shall be inserted, and after the last word in said section shall be added, “provided that rails may be shot between the first day of September and the first day of January.” R. S. O. c. 201, s. 2.

## CHAPTER 23.

## An Act to preserve the Forests from destruction by Fire

[Assented to 7th March, 1878.]

Preamble.

**W**HEREAS large quantities of valuable timber are annually destroyed by fires which are in many instances the result of negligence and carelessness, it is therefore necessary to provide stringent regulations for the prevention of such fires.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Lt.-Governor  
may proclaim  
a fire district.

**1.** The Lieutenant-Governor, may, by proclamation to be made by him from time to time, issued by and with the advice and consent of the Executive Council, declare any portion or part of the Province of Ontario to be a fire district.

Publication of  
fire district.

**2.** Every proclamation under this Act shall be published in the *Ontario Gazette*; and such portion or part of the Province as is mentioned and declared to be a fire district in and by the said proclamation, shall, from and after the said publication, become a fire district within the meaning and for the purposes of this Act.

Revocation.

**3.** Every such portion or part of the Province mentioned in such proclamation, shall cease to be a fire district upon the revocation by the Lieutenant-Governor in Council of the proclamation by which it was created.

Fires not to be  
started except  
for certain  
purposes and  
in certain  
periods.

**4.** It shall not be lawful for any person to set out, or cause to be set out or started, any fire in or near the woods within any fire district, between the first day of April and the first day of November in any year, except for the purpose of clearing land, cooking, obtaining warmth, or for some industrial purpose; and in cases of starting fires for any of the above purposes, the obligations and precautions imposed by the following sections shall be observed.

Precautions to  
be taken in  
case of clearing  
land.

**5.** Every person who shall between the first day of April and the first day of November, make or start a fire within such fire district for the purpose of clearing land, shall exercise and observe every reasonable care and precaution in the making and starting of such fire, and in the managing of and caring for the same after it has been made and started, in order to prevent such fire from spreading and burning up the timber and forests surrounding the place where it has been so made and started.



6. Every person who shall, between the first day of April and the first day of November make or start within such fire district a fire in the forest, or at a distance of less than half-a-mile therefrom, or upon any Island for cooking, obtaining warmth, or for any industrial purpose, shall—

Precautions in case of cooking, &c.

1. Select a locality in the neighbourhood in which there is the smallest quantity of vegetable matter, dead wood, branches, brushwood, dry leaves, or resinous trees ;

2. Clear the place in which he is about to light the fire by removing all vegetable matter, dead trees, branches, brushwood, and dry leaves from the soil within a radius of ten feet from the fire ;

3. Exercise and observe every reasonable care and precaution to prevent such fire from spreading, and carefully extinguish the same before quitting the place.

7. Any person who shall throw or drop any burning match, ashes of a pipe, lighted cigar or any other burning substance, or who shall discharge any fire-arm within such fire district shall be subject to the pains and penalties imposed by this Act, if he neglect completely to extinguish before leaving the spot the fire of such match, ashes of a pipe, cigar, wadding of the fire-arm or other burning substance.

Precautions in cases of matches, burning substances, &c.

8. Every person in charge of any drive of timber, survey or exploring party, or of any other party requiring camp-fires for cooking or other purposes within such fire district, shall provide himself with a copy of this Act, and shall call his men together and cause said Act to be read in their hearing, and explained to them at least once in each week during the continuance of such work or service.

Act to be read to employees by heads of surveys, lumberers, &c.

9. All locomotive engines used on any railway which passes through any such fire district or any part of it, shall, by the company using the same, be provided with and have in use all the most approved and efficient means used to prevent the escape of fire from the furnace or ash-pan of such engines, and that the smoke-stack of each locomotive engine so used shall be provided with a bonnet or screen of iron or steel wire netting, the size of the wire used in making the netting to be not less than number nineteen of the Birmingham wire gauge, or three sixty-fourth parts of an inch in diameter, and shall contain in each inch square at least eleven wires each way at right angles to each other, that is in all twenty-two wires to the inch square.

Precautions as to locomotives.

10. It shall be the duty of every engine driver in charge of a locomotive engine passing over any such railway within the limits of any such fire district, to see that all such

Duty of engine drivers.

appliances as are above-mentioned are properly used and applied, so as to prevent the unnecessary escape of fire from any such engine as far as it is reasonably possible to do so.

Penalty for non-compliance with this Act.

**11.** Whosoever unlawfully neglects or refuses to comply with the requirements of this Act in any manner whatsoever, shall be liable upon a conviction before any justice of the peace to a penalty not exceeding fifty dollars over and above the costs of prosecution, and in default of payment of such fine and costs, the offender shall be imprisoned in the common gaol for a period not exceeding three calendar months; and any railway company permitting any locomotive engine to be run in violation of the provisions of the ninth section of this Act shall be liable to a penalty of one hundred dollars for each offence, to be recovered with costs in any court of competent jurisdiction.

Time for bringing action.

**12.** Every suit for any contravention of this Act shall be commenced within three calendar months immediately following such contravention.

Disposal of fines.

**13.** All fines and penalties imposed and collected under this Act shall be paid one-half to the complainant or prosecutor and the other half to Her Majesty for the public use of the Province.

Government agents to enforce this Act.

**14.** It shall be the special duty of every Crown Land agent, woods and forest agent, Free Grant agent, and bush ranger, to enforce the provisions and requirements of this Act, and in all cases coming within the knowledge of any such agent or bush ranger to prosecute every person guilty of a breach of any of the provisions and requirements of the same.

Act not to interfere with right of action for damages occasioned by fire.

**15.** Nothing in this Act contained shall be held to limit or interfere with the right of any party to bring and maintain a civil action for damages occasioned by fire, and such right shall remain and exist as though this Act had not been passed.

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## CHAPTER 24.

An Act to provide for employing persons without the walls of Common Gaols.

[Assented to 7th March, 1878.]

HER MAJESTY by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Lieutenant-Governor in Council may, from time to time, direct or authorize the employment upon any specific work or duty, beyond the limits of any common gaol, of any prisoner who, after a prior sentence of imprisonment for any breach of any law of Canada or of any Province of Canada, is sentenced to be imprisoned with hard labour in such gaol under the authority of any statute of Ontario, or for the breach of the by-law of any municipal corporation in this Province.

Lieutenant Governor may authorize employment of prisoners outside gaols.

2. Every such prisoner shall, during such employment, be subject to all the rules, regulations and discipline of the gaol so far as applicable, and to any regulations made by the Lieutenant-Governor in Council under the first section of the Act of Canada, passed in the fortieth year of Her Majesty's reign, chaptered thirty-six, for preventing escapes and preserving discipline.

Discipline of gaol to be observed during employ.

3. No such prisoner shall be so employed, save under the strictest care and supervision of officers appointed to that duty

Supervision.

4. Every street, highway or public thoroughfare of any kind along or across which prisoners may pass in going to or returning from their work, and every place where they may be employed under this Act, shall, while so used, be considered as a portion of the gaol for the purposes of this Act so far as the legislative authority of this Province extends in this behalf.

Place of work is to be deemed part of gaol.

5. An account shall be kept of the amount earned by the labour of prisoners imprisoned in any common gaol, and such amount shall be divided between the Province and the county in proportion to the amount contributed by them respectively towards the care and maintenance of the said prisoners; the division shall be made by such officer, or other person or persons, and at such times as the Lieutenant-Governor in Council shall direct.

Application of earnings of prisoners.

6. In the case of a county in which a city or separated town is situate, the share of such earnings which the said city or town shall be entitled to receive from the county shall, in case the councils are unable to agree with respect thereto, be determined annually by arbitration, according to the provisions of the Municipal Act.

Application of earnings between county and city or town.





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\* By 41 V. c. 18, s. 1 (p. 485), *Rev. Stat.* c. 200, is repealed. The references here are therefore to the former Act. The latter can be seen at p. 422.

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